

XCEL ENERGY
COLORADO'S POWER PATHWAY
MORGAN COUNTY 1041
AREAS AND ACTIVITIES OF STATE INTEREST
ADDITIONAL INFORMATION

BOARD OF COUNTY COMMISSIONERS HEARING
SEPTEMBER 14, 2022
9:00 A.M.



**MORGAN COUNTY
PLANNING AND BUILDING DEPARTMENT**

September 7, 2022

TO: Board of County Commissioners - Hearing
DATE: **WEDNESDAY, September 14, 2022**
TIME: **9:00 AM**
PLACE: Assembly Room – B Level
Morgan County Administration Building
231 Ensign, Fort Morgan, CO

AGENDA

NEW BUSINESS:

Applicant: Public Service of Colorado-Xcel Energy

Description of application:

Concerning Public Service Company of Colorado's 1041 Permit Application for a Major Facility of a Public Utility to construct and operate a transmission line and proposed new substation in a portion of Colorado's Power Pathway located in Morgan County.

OTHER MATTERS:

ADJOURN:

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FILE SUMMARY



MORGAN COUNTY BOARD OF COMMISSIONERS
FILE SUMMARY
September 4, 2022
September 14, 2022(meeting date)
XCEL ENERGY
COLORADO'S POWER PATHWAY

On April 6, 2022, Charlotte Bolduc, Planning Technician and I met with representatives from Xcel Energy, Tetra Tech, and Gilbert F. McNeish Attorney at Law for a preapplication conference regarding the Colorado's Power Pathway Project. After a discussion between the Board and Staff on April 26, 2022, the Board moved to waive the preliminary preapplication for the Xcel Power Pathway. The motion carried 3-0.

On June 30, 2022, Public Service Company of Colorado, a Colorado corporation doing business as Xcel Energy, submitted a 1041 Areas and Activities of State Interest Application for Colorado's Power Pathway. A waiver was also requested from the requirements of Section 3-305(2)(b)(iii) of the Morgan County Zoning Regulations, which requires property title information, due to the significant length and varied character of the corridor. The gathering and ensuring the accuracy of the required information is not readily achievable.

On July 13, 2022, Xcel Energy was sent a letter informing Xcel Energy of the determination of a complete application and the granting of a partial waiver requesting a supplement to the application identifying active irrigation ditches.

In March 2021, Xcel filed a Certificate of Public Convenience and Necessity (CPCN) application with the Colorado Public Utilities Commission (CPUC) describing the public benefits of constructing Pathway. Written approval of the CPCN was provided by CPUC in June of 2022.

In addition to the permit application, packets for the BOCC hearing include the supplement identifying the active irrigation ditches, a response from Colorado Department of Transportation referral agency letter, and a copy of the written approval of the CPCN received from the CPUC.

This is a project to improve the state's electric grid and enable future renewable energy development. The proposed project will include approximately 48 miles of new 345-kilovolt double-circuit electric transmission line that will be constructed in 2 different segments and a new electric substation in Morgan County.

The general location of the proposed transmission line route is south of Wiggins and Fort Morgan and crosses Highway 71 south of Brush. A single pole will be used in most locations and will be brown or rust color and typically 105 to 140 feet in height.

The new Canal Crossing Substation is proposed approximately 5 miles south of the existing Pawnee substation. It will be constructed on approximately 80 acres with a 10-foot tall security fence.

Xcel conducted public outreach to receive public and stakeholder feedback and input on the line route and substation site. Current land uses will be mainly unchanged after construction allowing agricultural activities along the transmission line except for the small areas occupied by the transmission poles.

Construction on Segment 2 and the Canal crossing Substation is anticipated to start in 2023 and end in 2025. Construction on Segment 1 is anticipated to start in 2024 and end in 2026.

Guidelines and Regulations for Areas and Activities of State Interest, Morgan County, State of Colorado

The overall purpose and intent of the provisions of County's 1041 Regulations that apply to Xcel's project are as follows:

- (1) To encourage planned and orderly land use development;
- (2) To provide for the needs of agriculture, forestry, industry, business, residential communities, and recreation in future growth;
- (3) To encourage uses of land and other natural resources which are in accordance with their character and adaptability;
- (4) To conserve soil, water, forest and agricultural resources and to protect vested water rights;
- (5) To protect the beauty of the landscape;
- (6) To promote the efficient and economic use of public resources;
- (7) To regulate the site selection and construction of major facilities of a public utility to prevent significant deterioration or degradation of existing air and water quality in Morgan County;
- (8) To avoid or reduce direct conflicts with adopted local government, regional and state master plans; and
- (9) To regulate the site selection and construction of major facilities of a public utility to preserve the health and welfare of the citizens of Morgan County.

See Morgan County 1041 Regulations § 3-101.

Section 3-306 of the Morgan County 1041 Regulations require a review of certain criteria when determining whether to approve the proposed Xcel project, as follows:

- (1) The Board of County Commissioners shall approve an application for permit for site selection and construction of a major facility of a public utility (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and construction complies with the following criteria to the extent applicable:
 - (a) The health, welfare and safety of the citizens of this County will be protected and served;
 - (b) The natural and socio-economic environment of this County will be protected and enhanced;
 - (c) All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way, wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of this County and represents the best utilization of resources in the impact area;
 - (d) A satisfactory program to mitigate and minimize adverse impacts has been presented;
 - (e) The nature and location or expansion of the facility complies with all applicable provisions of the master plan of this County, and other applicable regional, metropolitan, state, and national plans;
 - (f) The nature and location or expansion of the facility complements the existing and reasonably foreseeable needs of the service area and of the area immediately affected by the facility;
 - (g) The nature and location or expansion of the facility does not unduly or unreasonably impact existing community services;
 - (h) The nature and location or expansion of the facility will not create an expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services, as determined by the Board;
 - (i) The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance;
 - (j) The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream, or agricultural users, adjacent communities or other water users;

- (k) Adequate water supplies are available for facility needs;
- (l) The nature and location of the facility or expansion will not unduly interfere with any existing easements for or rights-of-way, for other utilities, canals, mineral claims, or roads;
- (m) Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site;
- (n) The nature and location for expansion of the facility will not interfere with any significant wildlife habitat or adversely affect any endangered wildlife species, unique natural resource or historic landmark within the impact area;
- (o) The nature and location or expansion of the facility, including expected growth and development related to the operation and provision of service, will not significantly deteriorate water or air quality in the impact area;
- (p) The geological and topographic features of the site are adequate for all construction, clearing, grading, drainage, vegetation, and other needs of the facility construction or expansion;
- (q) The existing water quality of affected state waters will not be degraded below state and federal standards or established baseline levels.
- (r) The proposed project will not have a significantly adverse net effect on the capacities or functioning of streams, lakes and reservoirs in the impact area, nor on the permeability, volume, recharge capability, and depth of aquifers in the impact area.
- (s) The benefits of the proposed developments outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.
- (t) The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposed project, including surface, mineral, and water rights and easements for drainage, disposal, utilities, access, etc. If the applicant has not obtained all necessary property rights, permits and approvals, the Board may, at its discretion, grant the permit conditioned upon completion of the acquisition of such rights prior to issuance of a zoning or building permit by the County.
- (u) The proposed project will not present an unreasonable risk of exposure to or release of toxic or hazardous substances within the impact area. The determination of effects of the project shall include the following considerations:
 - (i) The means by which outdoor storage facilities for fuel, raw materials, equipment and related items are adequately enclosed by a fence or wall;

- (ii) The likelihood of hazardous materials or wastes being moved off the site by natural causes or forces;
 - (iii) Containment of inflammable or explosive liquids, solids or gases.
- (v) The scope and nature of the proposed project will not create duplicate services within the County; and
- (w) If the purpose and need for the proposed project are to meet the needs of an increasing population within the County, area and community development and population trends demonstrate clearly a need for such development.
- (2) The Board of County Commissioners shall deny the permit if the proposed development does not comply with the applicable criteria in subsection (1) of this Section.
- (3) The Board may impose additional mitigation requirements and conditions on an applicant as follows if it complies with each of the following steps:
 - (a) The Board shall make written findings that each such requirement and condition is necessary to ensure that the proposed project will not result in significant adverse net effect on the resources, values and conditions referenced above.
 - (b) The Board shall also find in writing that each such requirement and condition is necessitated by the proposed project.
 - (c) All such findings shall be based on material in the administrative record.
 - (d) The Board shall base the additional requirements and conditions on applicable design standards as adopted by the County, to the extent that such standards then exist.

See Morgan County 1041 Regulations § 3-306.

Analysis

- (a) *The health, welfare and safety of the citizens of this County will be protected and served.*

There are no anticipated substantial adverse impacts to the health, welfare and safety of the County's citizens. The impacts to agricultural land will be minimal as the right-of-way is 150 feet wide and certain agricultural activities may continue in the right of way. Although transmission lines can generate electromagnetic fields, Xcel's lines will comply with all applicable laws, including the National Electric Code. Moreover, most of the lines will be in sparsely populated areas.

- (b) *The natural and socio-economic environment of this County will be protected and enhanced.*

Impacts to the natural environment are anticipated to be temporary and limited in nature. Most impacts will occur during the construction phase, and Xcel will be required to use best management practices to avoid harm to areas outside of the lines' right-of-way. Some relatively minor temporary economic benefits are expected as construction crews work on the Project. However, because the crews will be relatively small and the construction will be temporary, the direct economic benefits are not anticipated to be substantial. The installation of the transmission lines will provide additional opportunity for power generation projects to connect to Xcel's system. Landowners may benefit by contracting for the use of their land for solar and wind generation projects that would otherwise not occur. These generation projects will come with benefits and drawbacks. New jobs will be available and construction crews will use local businesses. However, wind and solar projects have additional impacts on the area, including use of agricultural land, and noise, visual, and wildlife impacts.

- (c) *All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way, wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of this County and represents the best utilization of resources in the impact area.*

Xcel has provided a Routing and Siting Study as Attachment A to its application. Xcel undertook substantial efforts to engage with the public. Please see Section 3.4.1 for Segment 1 and Section 3.4.3 for Canal Crossing Substation and Segment 2 of the Routing and Siting Study for more information. The Routing and Siting addresses how Xcel considered a variety of factors in selecting the route of the transmission lines and how the route was modified to address these factors. A substantial portion of the route for the transmission line is in the public right-of-way. The transmission line routing and substation siting study information is set forth in Attachment A to Xcel's application. Section 11 of Xcel's narrative addresses alternatives considered by Xcel.

- (d) *A satisfactory program to mitigate and minimize adverse impacts has been presented.*

There are no anticipated non-mitigated adverse impacts other than the potential impact on County roadways, the potential for construction-related pollution of irrigation ditches, canals, and waterways, and unremediated land subsequent to construction activity. These concerns are adequately mitigated via the agreement between the County and Xcel, requiring Xcel to return any damaged County roadways to their condition prior to Xcel-caused damage. Xcel will be required to fully remediate land, including irrigation ditches, damaged by its construction activities. Please see Section 12 of Xcel's narrative for additional details regarding how it will mitigate and minimize adverse impacts.

- (e) *The nature and location or expansion of the facility complies with all applicable provisions of the master plan of this County, and other applicable regional, metropolitan, state, and national plans.*

The project is compatible with the County's master plan. It protects the agricultural character of the County, improves the state's renewable energy opportunities and brings renewable energy opportunities to the County.

- (f) *The nature and location or expansion of the facility complements the existing and reasonably foreseeable needs of the service area and of the area immediately affected by the facility.*

The project is not anticipated to cause significant changes to the use of land in its area. Following construction, agricultural activities along the transmission line route can continue outside of the small area occupied by the transmission poles and the Canal Crossing Substation footprint.

- (g) *The nature and location or expansion of the facility does not unduly or unreasonably impact existing community services.*

No additional governmental services are required by the project.

- (h) *The nature and location or expansion of the facility will not create an expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services, as determined by the Board.*

No additional governmental services are required by the project during or after construction. There may be impacts on County roadways, which can be mitigated by requiring Xcel to prepare a traffic plan and remediate any damage caused to County roadways.

- (i) *The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance.*

The equipment will be designed to withstand unusual meteorological events. The transmission lines and substation will be able to function normally in a wide range of County weather conditions.

- (j) *The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream, or agricultural users, adjacent communities or other water users.*

No water rights will be impacted by the Project.

- (k) *Adequate water supplies are available for facility needs.*

Water for construction activities will be trucked into the location and obtained from local permitted water sources. Large quantities of water are not necessary for the project.

- (l) *The nature and location of the facility or expansion will not unduly interfere with any existing easements for or rights-of-way, for other utilities, canals, mineral claims, or roads.*

As part of the land rights process, Xcel will identify existing easements and rights-of-way for other utilities, canals, mineral claims, or roads and will not cause any undue interference with existing easements or rights-of-way during construction and operation of Pathway.

- (m) *Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site.*

Any utilities required for the project will be adequate.

- (n) *The nature and location for expansion of the facility will not interfere with any significant wildlife habitat or adversely affect any endangered wildlife species, unique natural resource or historic landmark within the impact area.*

There will be impacts during construction of the Project, including increased construction equipment impact, noise, and dust. There could be sediment run off from the construction activities into irrigation ditches and other waterways. However, Xcel represents that it will implement best management practices to control sediment and runoff into canals and waterways during construction. Xcel will be regulated by CDPHE and is required to follow state standards to control fugitive construction dust. Once operational, most environmental impacts will be limited.

The transmission line route will span wetlands. Xcel believes it will be able to span most wetlands and therefore, will not adversely impact them. However, if a wetland cannot be spanned, Xcel will need to obtain appropriate permits from the Army Corps of Engineers.

Xcel has conducted studies on the impact of the Project on species in the area and has been engaged with Colorado Parks and Wildlife regarding the routing and related impacts of the transmission lines in the area. There will be impacts to habitat due to clearing activities for construction. However, these impacts should be limited to the 150-foot right-of-way.

- (o) *The nature and location or expansion of the facility, including expected growth and development related to the operation and provision of service, will not significantly deteriorate water or air quality in the impact area.*

Drainage facilities will be constructed to address the increased impervious area caused by the substation. Best management practices will be followed during construction to minimize run-off into waterways and irrigation ditches. There will be increased air pollution from fugitive dust, fumes, and construction equipment exhaust. Because the majority of the construction activity will occur in sparsely-populated areas, the impacts are anticipated to be minimal. The County retains its nuisance-enforcement authority and will regulate Xcel's construction activity if it results in adverse impacts to the neighboring properties.

- (p) *The geological and topographic features of the site are adequate for all construction, clearing, grading, drainage, vegetation, and other needs of the facility construction or expansion.*

The substation location is flat and minimal grading activity is expected. The majority of the transmission line route is also relatively flat. Therefore, no major topographic issues are expected. There will be clearing of vegetation within the 150-foot right-of-way to facilitate construction activities. Any damages will be reclaimed upon completion of construction.

- (q) *The existing water quality of affected state waters will not be degraded below state and federal standards or established baseline levels.*

There is some risk of runoff from the construction area into local waterways and irrigation ditches. However, Xcel will employ best management practices to avoid any significant issues. Upon completion of construction, the transmission line infrastructure will span most wetlands and waterways. If wetlands or waterways of the United States cannot be avoided, Xcel will be required to obtain federal permits.

- (r) *The proposed project will not have a significantly adverse net effect on the capacities or functioning of streams, lakes and reservoirs in the impact area, nor on the permeability, volume, recharge capability, and depth of aquifers in the impact area.*

See Section (q), above. There will be no impact on aquifers.

- (s) *The benefits of the proposed developments outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.*

Minimal loss of agricultural land is anticipated. There could be some impact on natural resources, primarily resulting from impact of construction activity on wildlife habitat. However, Xcel is working with CPW to limit these impacts. The proposed development will provide some short terms economic benefit to local businesses during construction. The longer term benefits include the opportunity

for renewable power generation operations in the County to connect to the transmission facilities and the related environmental impacts of clean energy sources (wind and solar).

- (t) *The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposed project, including surface, mineral, and water rights and easements, for drainage, disposal, utilities, access, etc. If the applicant has not obtained all necessary property rights, permits and approvals, the Board may, at its discretion, grant the permit conditioned upon completion of the acquisition of such rights prior to issuance of a zoning or building permit by the County.*

Xcel will be required to obtain all necessary property rights for the transmission lines prior to commencement of construction. Xcel is unlikely to have the rights for all property in the County at commencement of construction, but will not commence construction on any section until the underlying rights are acquired.

- (u) *The proposed project will not present an unreasonable risk of exposure to or release of toxic or hazardous substances within the impact area. The determination of effects of the project shall include the following considerations:*
 - (i) *The means by which outdoor storage facilities for fuel, raw materials, equipment and related items are adequately enclosed by a fence or wall;*
 - (ii) *The likelihood of hazardous materials or wastes being moved off the site by natural causes or forces;*
 - (iii) *Containment of inflammable or explosive liquids, solids or gases.*

No hazardous material is involved in the project other than fuel, lubricants, and coolants for machinery, which Xcel will store at its temporary construction areas. The County will be issuing permits for these temporary areas and will require that such material be stored appropriately in a manner that minimizes the risk of any spills.

- (v) *The scope and nature of the proposed project will not create duplicate services within the County.*

The transmission lines and substation fill a need for more transmission-related capacity for renewable energy generation facilities. They will not duplicated existing services in the County.

- (w) *If the purpose and need for the proposed project are to meet the needs of an increasing population within the County, area and community development and population trends demonstrate clearly a need for such development.*

The project is not aimed at meeting the needs of the County due to its increasing population.

Recommended Conditions

The following conditions are recommended if the 1041 Areas and Activities of State Interest Application for Colorado's Power Pathway transmission lines and substation (Canal Crossing Substation) is approved:

1. All necessary land use, environmental, and construction permits, approvals and authorizations will be obtained prior to the start of and during construction as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, and stormwater permits.
2. Any equipment additions at the Pawnee substation which are included in the Power Pathway project are not approved as part of this 1041 permit. Xcel is required to obtain all necessary land use approvals for any equipment additions at the Pawnee substation.
3. No poles shall exceed a height of 140 feet. Any poles that exceed this height will require prior approval from the County, upon a showing by Xcel that such height is necessary. Such additional height may be approved by the County Planning Administrator upon application and request from Xcel. The County Planning Administrator may request any additional information necessary to determine whether approval should be granted.
4. The Canal Crossing Substation shall be enclosed by a security fence at least 10 feet tall and be secured at all times.
5. Prior the commencement of construction on a Segment, Xcel will enter into a road use agreement for the use of any public road during construction which shall include the following:
 - a. A map showing which County roads will be used during construction.
 - b. A pre-construction baseline survey of County roads to be used during construction to document their pre-construction condition, obtained by and paid for by the applicant and prepared by a Colorado licensed engineer.
 - c. A mitigation plan to address traffic congestion, control, and potential impacts to County roads to be used during construction. The mitigation plan shall also include any dust mitigation activities.
 - d. A requirement that the applicant to return any County roads to their pre-construction baseline condition.

- e. A requirement to post financial security in an amount not less than one hundred fifteen percent (115%) of the estimated cost to complete all road restoration, in the form of an irrevocable letter of credit or cash escrow. Cost estimates shall be provided by a licensed Colorado engineer. Upon preliminary acceptance of the restored public road, the County shall release all but fifteen percent (15%) of total actual costs of restoration of the public roads, so long as Xcel is not in default of any provision of the public improvements agreement. The County shall inspect the restored roads and Xcel shall pay to the County the cost incurred by the County in conducting such inspections. These costs shall be due and payable upon demand of the County. Xcel shall be responsible for correcting or properly completing the restoration.
 - f. The residual fifteen percent (15%) retained by the County shall act as security for Xcel's guarantee that the restoration remains free of defect during a two year warranty period. Xcel may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the County. The County may accept substitute or supplemental forms of security in its sole discretion.
- 6. Prior the commencement of construction on a segment, Xcel must obtain all proper permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.
 - 7. The County will require temporary use permits for all temporary construction areas, any staging or laydown areas, or other temporary areas for construction activities ("Temporary Areas"). Xcel is required to obtain a temporary use permits for all Temporary Areas prior to placing any equipment, materials or any other items associated with the Pathway Project in the temporary construction area. To obtain a temporary use permit, at a minimum, Xcel must provide a map showing the Temporary Area by size (acreage and perimeter), a list of materials and equipment to be stored on the Temporary Areas, activities within the area (e.g., grading, storage, etc.), the length of time the temporary construction or staging or laydown areas will be in use and in the case of concrete batch plants, a copy of the APEN issued by the Colorado Department of Public Health and Environment. Temporary use permits issued for Temporary Areas may not be issued for a period longer than one year. There is no limit on the number renewals for the temporary use permits; however, Xcel must notify the County at least thirty (30) days prior to the end of a permit of its intent to renew. It shall be a condition of every temporary use permit issued under this provision that all equipment and materials must be removed from the Temporary Areas and the area returned to a condition similar to its condition prior to construction, in accordance with paragraph 10 below. No permanent structures may remain in the Temporary Areas unless approved by the County pursuant to the applicable Morgan County Zoning Regulations.

8. The temporary use permit previously granted to Xcel at the northeast corner of County Road F and County Road 18 and due to expire shall become part of this 1041 permit and subject to the provision in paragraph 7 above.
9. Prior to use of any helicopters in connection with the Power Pathway project, Xcel shall provide at least thirty (30) days' written notice to the County Planning Administrator of the location of the helicopter fly yard and dates and hours of helicopter use. Xcel shall comply with all FAA requirements, including but not limited to, notice of evacuation to residences.
10. All Temporary Areas and transmission lines rights of way, not needed for Xcel's on-going operations or not used for crop production, shall be reclaimed and/or rescinded as soon as practicable but no later than six months after Xcel has completed construction in that segment, unless the County Planning Administrator grants an extension for demonstrated good cause.
11. Construction occurring within ¼ quarter mile of any residence shall not commence earlier than 7 a.m.
12. Xcel shall prevent the existence of any nuisances by way of its construction activities. All trash, litter, construction waste and any potentially hazardous materials shall be disposed of properly off-site. If the County determines that a nuisance exists and the nuisance is not abated or an abatement plan is not submitted to the satisfaction of the County, the County may, upon thirty (30) days' notice under this Agreement, draw upon the Performance Guarantee to pay the cost and expenses of abating the nuisance. The decision to draw on the Performance Guarantee shall be within the sole discretion of the County.
13. Xcel shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.
14. A drainage plan for the substation must be submitted for County review prior to the commencement of construction of the substation.
15. Xcel shall be responsible for the payment of all costs and fees incurred by the County associated with this Permit. The County shall invoice Xcel for costs and fees and payment will be due by Xcel within thirty (30) days of the date of the invoice. Failure to pay may result in enforcement actions by the County.

Nicole Hay
Morgan County Planning Administrator

**LETTER OF COMPLETENESS, PARTIAL
WAIVER AND CLARIFYING QUESTIONS**

Responses

Colorado Public Utilities Commission



**MORGAN COUNTY
PLANNING AND BUILDING DEPARTMENT**

July 13, 2022

Rita Ruderman, Principal Agent
Siting & Land Rights
Xcel Energy
1800 Larimer Street
Denver, CO 80202

Re: Xcel 1041 Permit Application
Power Pathway

Dear MS. Ruderman:

This letter shall serve to inform you that Morgan County has reviewed Xcel's 1041 Permit Application for a Major Facility of a Public Utility and determined the application is complete. The public hearing on the 1041 Permit Application will be heard by the Board of County Commissioners on September 14, 2022, starting at 9 a.m. in the Assembly Room at 231 Ensign, Fort Morgan.

In addition, I am granting the partial waiver requested by Xcel in the letter from Carly Rowe, dated June 30, 2022. As stated in that letter, Xcel shall supplement its application with the identity of active irrigation ditches. Please supplement your application no later than Monday, July 18, 2022.

Lastly, County staff has some clarifying questions related to the application which I will be providing to you in a separate letter.

Please let me know if you have any questions.

Sincerely,

Nicole Hay
Planning & Zoning Director



MORGAN COUNTY PLANNING AND BUILDING DEPARTMENT

July 13, 2022

Rita Ruderman, Principal Agent
Siting & Land Rights
Xcel Energy
1800 Larimer Street
Denver, CO 80202

Re: Xcel 1041 Permit Application
Power Pathway

Dear MS. Ruderman:

As you are aware, County staff has reviewed Xcel's 1041 Permit Application. After the review, County staff is requesting clarification and information on several topics:

1. The application mentions, but does not identify, the ditch mapped near the Pathway facilities. See Narrative, Sec. 12.9. Please identify the name and location of that ditch.
2. The application appears to contain inconsistent statements related to equipment additions at Pawnee Substation. In the chart located in the Narrative, Sec. 1.3, it appears that the equipment additions at Pawnee are being addressed through Morgan's 1041 Permit process. However, in that same section, paragraph 3, the narrative states that these additions are not being considered as part of the 1041 permit process. Please provide clarification of the inclusion of the equipment additions at Pawnee.
3. Please provide a copy of the written approval received from the Colorado Public Utilities Commission for Segments 1 through 5.
4. On June 28, 2022, the County forwarded an email from Veryl Eschen, of the same date, regarding the segment of the project which crosses his property. We believe that Mr. Eschen's property is crossed by Link 2103 in Segment 2 as shown on the Figure 7, Attachment A (Segment 2). The crossing of Mr. Eschen's property, essentially splitting it, and the crossing of several properties to the west of Mr. Eschen, is directly contrary to the public comments Xcel received during its open houses. According to the application, the public expressly requested that the line follow section lines. Please provide an explanation of the location of this link and why it cannot be located either in the rights of way of County Road H or G.
5. Please clarify the height of the poles necessary for the project. The information provided is broad and vague.

6. It is our understanding that the temporary use permit issued for construction structures on the Glenn Ranch property expired on April 1, 2022. No extension has been granted for that permit. As such, there is no existing temporary use permit as represented in the application. If you believe this to be incorrect, please let us know.

7. Please identify for which links the helicopter use might be necessary.

8. For the construction phase of the pathway, the County would like information regarding the size (in distance and acreage) of construction sites along the route. For example, is an entire link part of one construction phase or are the links divided into smaller construction phases? If they are divided, what is the criteria for that decision?

Your prompt attention to these inquiries is appreciated.

Please let me know if you have any questions.

Sincerely,



Nicole Hay
Planning & Zoning Director



1800 Larimer Street
Denver, CO 80202

July 18, 2022

Nicole Hay, Planning and Zoning Director
Planning and Building Department
Morgan County Government
231 Ensign Street
Fort Morgan, CO 80701

RE: Response to Comments—Area and Activities of State Interest Permit Application for Colorado's Power Pathway

Dear Ms. Hay,

Thank you for your letter of July 13, 2022, regarding the Area and Activities of State Interest Permit Application submitted on June 30, 2022, for Colorado's Power Pathway (Pathway). In the letter, you requested clarification on eight topics as presented below.

- 1. The application mentions, but does not identify, the ditch mapped near the Pathway facilities. See Narrative, Sec. 12.9. Please identify the name and location of that ditch.**

Response: The ditch referenced in the application is an unnamed ditch identified through review of the National Hydrography Dataset as well as a Colorado waterways dataset. The Pathway transmission line would cross this ditch near the northern boundary of Section 9 in Township 2 North, Range 57 West. None of the datasets reviewed identified the name of the ditch or owner/operator. Xcel Energy is consulting with the landowner of the property where Pathway would cross this ditch, Glenn Ranch & Cattle Company, to determine if they have any additional knowledge of the owner or status of this ditch that we can provide to Morgan County.

- 2. The application appears to contain inconsistent statements related to equipment additions at Pawnee Substation. In the chart located in the Narrative, Sec. 1.3, it appears that the equipment additions at Pawnee are being addressed through Morgan's 1041 Permit process. However, in that same section, paragraph 3, the narrative states that these additions are not being considered as part of the 1041 permit process. Please provide clarification of the inclusion of the equipment additions at Pawnee.**

Response: Minor equipment additions or replacements within the electrical equipment enclosure at Pawnee are anticipated as part of Pathway. The new equipment will not be visible outside of the electrical equipment enclosure and would be considered an equipment upgrade to an existing facility. Given the nature of the work anticipated at Pawnee, it is not requested to be included in the 1041 permit application review.

- 3. Please provide a copy of the written approval received from the Colorado Public Utilities Commission for Segments 1 through 5.**

Response: The written decision from the Colorado Public Utilities Commission (CPUC) providing approval for Segments 1 through 5 and conditional approval for the May Valley – Longhorn Extension is provided as an enclosure to this letter.

4. **On June 28, 2022, the County forwarded an email from Veryl Eschen, of the same date, regarding the segment of the project which crosses his property. We believe that Mr. Eschen's property is crossed by Link 2103 in Segment 2 as shown on the Figure 7, Attachment A (Segment 2). The crossing of Mr. Eschen's property, essentially splitting it, and the crossing of several properties to the west of Mr. Eschen, is directly contrary to the public comments Xcel received during its open houses. According to the application, the public expressly requested that the line follow section lines. Please provide an explanation of the location of this link and why it cannot be located either in the rights of way of County Road H or G.**

Response: Link 2103 is proposed to cross Veryl Eschen's property located in Section 33 of Township 2 North, Range 55 West. Of Link 2103's 13.6 miles of length, 1.8 miles are adjacent to existing transmission lines and not section line adjacent, approximately 4 miles are located along quarter section lines, and the remainder of the link is located along section lines as currently routed. Link 2103 was adjusted to follow section lines in specific areas based on those landowners' requests. The 4-mile area that is proposed along quarter section lines, including Mr. Eschen's property, is proposed in this location to avoid multiple homes and other structures located along the northern (County Road H) and southern (County Road G) section lines in this area. Other landowners along this mid-section portion of Link 2103 are agreeable to the current proposed transmission line route.

A Pathway land agent has spoken with Mr. Eschen by phone on multiple occasions and has attempted to meet with them in person but has been unsuccessful in setting that up due to landowner scheduling complications. The land agent will continue to attempt communication with Mr. Eschen regarding the transmission line route and to discuss any proposed modifications to the route on their property.

5. **Please clarify the height of the poles necessary for the project. The information is broad and vague.**

Response: The height of the poles proposed for Pathway will typically range between 105 and 140 feet. Each pole is designed for the location it will be placed and the height is dependent on multiple factors. Taller poles may be needed where the transmission line crosses features such as other electric lines, roads, or to provide clearance to the ground based on terrain or to pivot irrigation systems. Shorter poles will be used where the transmission line is traversing relatively flat ground, through grassland or dryland farming areas, and where the distance between poles is not larger than the typical span of 950 feet.

6. **It is our understanding that the temporary use permit issued for construction structures on the Glenn Ranch property expired on April 1, 2022. No extension has been granted for that permit. As such, there is no existing temporary use permit as represented in the application. If you believe this to be incorrect, please let us know.**

Response: An extension of the temporary use permit for the laydown yard on the Glenn Ranch property was administratively approved by Morgan County through 10/1/22 and recorded through reception number 939094. An additional extension of this temporary use permit will be requested if approved for use as part of the Pathway permit in Morgan County and agreed to with the landowner.

7. Please identify for which links the helicopter use might be necessary.

Response: Construction planning is still in progress for Pathway and exact locations where helicopter use might be necessary have not been determined. In Morgan County, it is anticipated that helicopters could be used to install vibratory caisson foundations in the areas of sandy soil to reduce impacts to these fragile soils and groundcover/vegetation. Geotechnical studies are under way to determine the exact ground conditions at each transmission pole location which will guide the design of the transmission line and substation equipment foundations and construction methods.

Helicopters may also be used to transport assembled poles and string the conductor and static wire between poles to reduce the number of vehicles traveling between poles on the ground and to expedite this phase of construction.

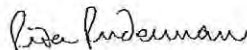
Xcel Energy or our construction contractors will apply for any necessary permits with the Federal Aviation Administration once the extent of helicopter use is determined. We will also coordinate with Morgan County regarding the detailed construction plans once developed.

8. For the construction phase of the pathway, the County would like information regarding the size (in distance and acreage) of construction sites along the route. For example, is an entire link part of one construction phase or are the links divided into smaller construction phases? If they are divided, what is the criteria for that decision?

Response: It is anticipated that construction will occur across Segments and not by link. For example, Construction on Segment 2 from Canal Crossing Substation to Goose Creek Substation will occur at the same time and is anticipated to start in mid-2023, pending permit approvals. Multiple construction crews will be used, and work will occur in phases as crews move along the length of the line. The phases of transmission line construction generally include digging holes for foundations, then installation of anchor bolt cages and rebar in the holes, pouring concrete for the foundations, allowing the concrete to cure, setting the poles onto the foundations, and then stringing of the conductor and static wire. Restoration activities will occur in areas as construction is complete. Construction on Segment 1 is anticipated to start in 2024 and will overlap with the completion of Segment 2.

We look forward to working with you during the permit process. Please feel free to contact me by telephone at (303) 571-7159 or email at Rita.C.Ruderman@xcelenergy.com or contact permitting consultant, Stephanie Phippen with Tetra Tech Inc., at (303) 980-3515 or Stephanie.Phippen@tetrattech.com.

Sincerely,



Rita Ruderman, Principal Agent
Siting & Land Rights
Xcel Energy
Telephone: (303) 571-7159
Rita.C.Ruderman@XcelEnergy.com

Enclosure (1): Decision No. C22-0270 before the Public Utilities Commission of the State of Colorado



1800 Larimer Street
Denver, CO 80202

July 20, 2022

Nicole Hay, Planning and Zoning Director
Planning and Building Department
Morgan County Government
231 Ensign Street
Fort Morgan, CO 80701

RE: Response to Comments—Area and Activities of State Interest Permit Application for Colorado's Power Pathway

Dear Ms. Hay,

Thank you for your letter of July 13, 2022, regarding the Area and Activities of State Interest Permit Application submitted on June 30, 2022, for Colorado's Power Pathway (Pathway). Xcel Energy provided clarification on the eight topics identified in that letter via an electronic response on July 18, 2022. In this communication, we are providing additional information on one item as described below.

- 1. The application mentions, but does not identify, the ditch mapped near the Pathway facilities. See Narrative, Sec. 12.9. Please identify the name and location of that ditch.**

Response (July 18, 2022): The ditch referenced in the application is an unnamed ditch identified through review of the National Hydrography Dataset as well as a Colorado waterways dataset. The Pathway transmission line would cross this ditch near the northern boundary of Section 9 in Township 2 North, Range 57 West. None of the datasets reviewed identified the name of the ditch or owner/operator. Xcel Energy is consulting with the landowner of the property where Pathway would cross this ditch, Glenn Ranch & Cattle Company, to determine if they have any additional knowledge of the owner or status of this ditch that we can provide to Morgan County.

Additional Information (July 20, 2022): An Xcel Energy Land Agent spoke with John and Pat Glenn regarding the ditch referenced above on July 19, 2022. According to the landowners, this ditch has not been operational for nearly 75 years. Xcel Energy is not aware of any active irrigation ditches crossed by the Pathway transmission line in Morgan County.

Decision No. C22-0270

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0096E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR COLORADO'S POWER PATHWAY 345 KV TRANSMISSION PROJECT AND
ASSOCIATED FINDINGS REGARDING NOISE AND MAGNETIC FIELD
REASONABLENESS.

**DECISION ADDRESSING APPLICATION,
APPROVING SETTLEMENT AGREEMENT IN PART,
AND DENYING PARTIAL STIPULATION**

Mailed Date: June 2, 2022
Adopted Dates: February 11, 2022
and February 23, 2022

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I. BY THE COMMISSION

A. Statement

1. By this Decision, the Public Utilities Commission (Commission or PUC) grants Public Service Company of Colorado (Public Service or Company) a Certificate of Public Convenience and Necessity (CPCN) for Colorado's Power Pathway 345 kilovolt (kV)

Transmission Project (Pathway Project or Project), as described in the Company's Application for the Project filed on March 2, 2021 (Application). This Decision also implements a Performance Incentive Mechanism (PIM) to motivate timely completion of the Pathway Project and discourage imprudent cost overruns.

B. Background

1. Procedural Background

2. On March 2, 2021, Public Service filed its Application with supporting attachments and pre-filed testimony for a CPCN for the Pathway Project, requesting that the Public Utilities Commission: (1) issue a CPCN for the Pathway Project; (2) find that the Pathway Project is reasonable and in the public interest, supported by the Company's cost estimate for the Project; and (3) find that the associated noise and magnetic field levels that the Company estimates will result from the Pathway Project are reasonable and require no further mitigation or prudent avoidance measures.

3. Public Service also proposes that the Commission consider issuing a CPCN for the May Valley-Longhorn Extension (MVL Extension), an approximately 90-mile 345 kV double circuit transmission line from a new substation to be constructed at the southeastern corner of the Pathway Project near Lamar, Colorado, south to a new substation near Vilas, Colorado. If the Commission decides a CPCN should be granted for the MVL Extension, Public Service also requests the Commission find the extension is reasonable and in the public interest, supported by the Company's cost estimate for the extension, and that the associated magnetic field and noise levels are reasonable and require no further mitigation or prudent avoidance measures.

4. The Company filed supporting testimony from seven witnesses:¹ Alice K. Jackson, Brooke A. Trammell, Amanda R. King, James F. Hill, Brian J. Richter, Byron R. Craig, and Carly R. Rowe. Ms. Jackson's testimony described the Pathway Project's role in reducing the Company's emissions and achievement of the Company's energy policy goals. Ms. Trammell's testimony summarizes the Application and Project overview. Mr. Hill's testimony describes the need for the Company's need for the Project as a component of resource planning. Mr. Richter puts forth a cost estimate for the Pathway Project. Mr. Craig describes the engineering plans for the Project as well as sponsors the noise and magnetic field analyses performed. Ms. Rowe discusses the siting, permitting, and land rights activities associated with the Pathway Project.

5. The intervenors to this Proceeding include: Staff of the Public Utilities Commission (Staff), the Colorado Office of the Consumer Utility Advocate (UCA), the Colorado Energy Office (CEO), Holy Cross Electric Association Inc. (Holy Cross), Platte River Power Authority (PRPA), Black Hills Colorado Electric, LLC (BHE), Interwest Energy Alliance (Interwest), Intermountain Rural Electric Association (CORE), County of Pueblo (Pueblo), Colorado Energy Consumers Group (CEC), Tri-State Generation and Transmission Association, Inc. (Tri-State), Colorado Springs Utilities (CSU), Colorado Independent Energy Association (CIEA), Colorado Solar and Storage Association (COSSA), the Solar Energy Industries Association (SEIA), Mr. Larry Miloshevich, the Rocky Mountain Environmental Labor Coalition and Colorado Building and Construction Trades Council, AFL-CIO (jointly,

¹ See HE 101, Direct Testimony of Alice K. Jackson; HE 102, Direct Testimony of Brooke A. Trammell; HE 103, Direct Testimony of James F. Hill; HE 104, Direct Testimony of Amanda R. King; HE 105, Direct Testimony of Brian J. Richter; HE 106, Direct Testimony of Bryon R. Craig; HE 107, Direct Testimony of Carly R. Rowe.

RMELC/CBCTC), LSP Transmission Holdings II, LLC and Western Energy Connection, LLC (together, LS Power), Western Resource Advocates (WRA), and Climax Molybdenum Company (Climax).² Decision No. C21-0314-I set the matter for hearing *en banc*.

6. Decision No. C21-0532-I issued September 1, 2021, extended the deadline for a Commission decision by an additional 130 days, as permitted by § 40-6-109.5(4), C.R.S.

7. Public Service filed Supplemental Direct Testimony on September 3, 2021. On or before September 24, 2021, Answer Testimony was filed by Larry Miloshevich, CEC, Interwest, CEO, COSSA/SEIA, WRA, Pueblo, Tri-State, Staff, UCA, CIEA, LS Power, CORE, Pueblo, and RMELC/CBCTC. Public Service filed Rebuttal Testimony on or around October 22, 2021.

8. On November 9, 2021, Public Service, Staff, CEO, RMELC/CBCTC, COSSA/SEIA, WRA, PRPA, CIEA, Interwest, and Pueblo (collectively, Settling Parties) filed a Motion to Approve Non-unanimous Comprehensive Settlement Agreement and Recommended Hearing Procedures and attached Settlement Agreement (Settlement Agreement). The specific terms of the Settlement Agreement are discussed below.

9. Also on November 9, 2021, UCA, CEC, and Climax (collectively, Stipulating Parties) filed a Joint Motion for Approval of Partial Stipulation and attached the Partial Stipulation Agreement (Partial Stipulation). The specific terms of the Partial Stipulation are discussed below.

10. The Commission held an *en banc* evidentiary hearing on November 15, 16, and 17, 2021. Public Service, Staff, UCA, PRPA, Black Hills, Interwest, CORE, Pueblo, CEO, CEC, Tri-State, Colorado Springs, CIEA, COSSA/SEIA, RMELC/CBCTC, LS Power, WRA, and Climax each entered appearances.

² Decision No. C21-0314-I, issued May 27, 2021.

11. Post-hearing statements of position (SOPs) were filed on or before December 10, 2021, by WRA, Interwest, LS Power, Pueblo, Black Hills, Larry Miloshevich, COSSA/SELA, CEO, UCA, CORE, CIEA, CEC jointly with Climax, and Public Service, jointly with Staff and RMEL/CBCTC.

12. The Commission initiated its deliberations adopting this Decision at a Commissioners' Deliberations Meeting on February 11, 2022. The Commission completed deliberations at the Commissioners' Weekly Meeting on February 23, 2022.

2. The Power Pathway Project

a. Description

13. The Pathway Project consists of approximately 560 miles of 345 kV, double-circuit transmission lines that would connect the Front Range to areas rich in solar and wind potential in northeastern, eastern, and southeastern Colorado. Public Service presents the Power Pathway Project in five segments. The Company proposes that the northern terminus of the Project will be at the existing Fort St. Vrain Substation in western Weld County; that the Project will extend east to a new substation near the existing Pawnee Substation (Segment 1); then east/southeast to a new substation south of the City of Burlington (Segment 2); then south to a new substation northeast of the City of Lamar (Segment 3); then west to the planned Tundra Substation near the Comanche Generating Station (Segment 4); and then north to its terminus at the existing Harvest Mile substation located in Arapahoe County (Segment 5). The Pathway Project also involves expansion of the existing Fort St. Vrain, Pawnee, and Harvest Mile Substations, expansion of the planned Tundra Substation and construction of three new substations.

14. The proposed May Valley-Longhorn Extension consists of approximately 90 miles of 345 kV double circuit transmission line from a new substation to be constructed at the southeastern corner of the Pathway Project near Lamar, Colorado, south to a new substation near Vilas, Colorado.

15. The Company proposes that each segment of transmission line will be constructed using single pole, double circuit tangent structures and two-pole dead-end structures, with two-bundle 1272 kcmil ACSR Bittern conductors. It asserts that undergrounding the Project would not be reasonable because it would be cost-prohibitive, and because of technical issues involved with significantly higher reactive power produced by alternating current (AC) underground cables.³ Public Service states that as proposed, the Pathway Project will be able to reliably carry the coincident injection of approximately 3,000 to 3,500 MW of electric power from new generation, and that the Project will be able to accommodate a nameplate generation capacity higher than these figures.⁴

16. The Company asserts that the Pathway Project will provide a “backbone network transmission system” in eastern Colorado.⁵ It explains that the Project will consist of bulk transmission lines networked together, so that there is more than one path to deliver electricity from generation to load, and that the proposed looped configuration with multiple electricity pathways inherently provides greater system reliability and operational benefits than radial transmission or long gen-ties.⁶ It states that the Pathway Project would “significantly improve

³ HE 104, Direct Testimony of Amanda R. King, at 77:4-78:2.

⁴ HE 104, Direct Testimony of Amanda R. King, at 38:2-9.

⁵ HE 102, Direct Testimony of Brooke A. Trammell, at 16:7-13.

⁶ HE 104, Direct Testimony of Amanda R. King, at 26:20-28:2.

reliability of the Colorado transmission network”⁷ as high levels of variable energy resources are brought on to the system and the dependency on variable resources to meet system reliability increases.⁸

17. The Company explains that pursuant to Senate Bill (SB) 19-236, it is required to file a 2021 Electric Resource Plan (ERP) and Clean Energy Plan (CEP) that achieves an 80 percent carbon dioxide emission reduction from 2005 levels by 2030.⁹ Company witness Mr. Hill states that as part of achieving this level of emissions reduction in its 2021 ERP and CEP, the Company anticipates it will add roughly 2,300 MW of utility-scale wind, 1,600 MW of utility-scale solar, and 400 MW of storage.¹⁰ Public Service also notes that SB 19-236 establishes a target for the Company of 100 percent emission reduction by 2050, and that House Bill (HB) 19-1261 establishes additional economywide goals for Colorado.¹¹ Company witness Ms. Trammell explains that through the requirements of SB07-100, it has designated five Energy Resource Zones (ERZs)¹², largely located in eastern and southern Colorado, in which there are significant wind and solar resources that have seen minimal development. Public Service explains that currently there is very limited transmission available in eastern Colorado, which would leave generators to develop long, costly, and unreliable radial or gen-tie lines to

⁷ HE 104, Direct Testimony of Amanda R. King, at 52:5-8.

⁸ HE 101, Direct Testimony of Alice K. Jackson, at 36:4-6.

⁹ The Company filed its 2021 ERP & CEP Application on March 31, 2021 in Proceeding No. 21A-0141E (2021 ERP & CEP).

¹⁰ HE 103 Direct Testimony of James F. Hill, at p. 19; HE 108, Supplemental Direct Testimony of Brooke A. Trammell, at p.8.

¹¹ HB 19-1261, codified at § 25-7-102(g), C.R.S., establishes economywide greenhouse gas emission reduction goals based on a 2005 emission baseline of: 26 percent reduction by 2025; 50 percent reduction by 2030; and 90 percent reduction by 2050.

¹² SB07-100, codified at § 40-2-126, C.R.S., defines ERZs as “geographic area[s] in which transmission constraints hinder the delivery of electricity to Colorado customers, the development of new electric generation facilities to serve Colorado consumers, or both.”

interconnect renewable resources in these areas to the existing transmission network.¹³ Public Service contends that adding a transmission backbone in eastern Colorado through approval of the Pathway Project will unlock clean energy resources in Colorado's designated ERZs 1, 2, 3, and 5 necessary to meet the 2030 clean energy target of SB19-236. Without an expanded transmission system capable of integrating the significant amount of new clean energy resources necessary to meet emission reduction goals, the Company states, it will be unable to meet its statutory requirements in 2030. The Company also asserts that the Project will "form the bedrock for future development" necessary to meet emission reduction goals beyond 2030.¹⁴

18. To support the proposed MVL Extension, the Company states the extension would establish additional transmission infrastructure to support the interconnection of resources in southeastern Colorado, an area rich in wind resources. Public Service asserts that "having a well-planned transmission line to this area" would also minimize developers' need to construct multiple, costly generation tie lines to interconnect to the Pathway Project.¹⁵

19. As explained by Company witness Mr. Richter, Public Service plans to construct the Project in three major phases. It expects that Segments 2 and 3 will be placed in service by the end of 2025. Segment 1 is planned to be in service by the end of 2026. The Company expects that Segments 4 and 5 will be in service by the end of 2027.

20. Public Service explains that Segments 2 and 3 will bring transmission infrastructure to wind-rich regions in eastern Colorado, and that adding new renewable generation by the end of 2025 supports the state's greenhouse gas emissions reduction target

¹³ HE 104, Direct Testimony of Amanda R. King, at 29:2-30:2.

¹⁴ HE 104, Direct Testimony of Amanda R. King, at 26:13-17.

¹⁵ HE 102, Direct Testimony of Brooke A. Trammell, at 19:8-13.

timelines.¹⁶ Additionally, the Company asserts that by having these segments in-service by the end of 2025, wind and solar developers will be able to interconnect resources prior to the expiration of the Production Tax Credit (PTC) and step down of the Investment Tax Credit (ITC),¹⁷ which would represent cost savings of approximately \$300 million per GW of interconnected wind capacity and \$100 million per GW of interconnected solar capacity, in net present value, to customers. The Company states that Segments 1, 4, and 5 will provide improved reliability.¹⁸

21. Additionally, Public Service explains that it is proposing the Pathway Project in advance of the approval of its 2021 ERP and CEP to provide a strategic backbone transmission resource in eastern Colorado, so that bidders may propose to interconnect to the Project during the Phase II competitive solicitation. The Company explains this would remove some uncertainty for renewable developers in where they may interconnect their projects, in turn reducing the potential bid prices made in the competitive solicitation. It states that waiting to design and construct transmission until after the acquisition of renewable generation would create a timing dilemma between resource and transmission planning, which is made more acute by impending emission reduction targets - if the transmission facilities are not identified until after the Commission approves the development or acquisition of renewable resources, the transmission lines may not be constructed by the time the new generation resources are ready to be placed in service and necessary to meet emission reduction targets.¹⁹ Further, the Company contends that approval of the Pathway Project to accommodate future anticipated generation development is

¹⁶ HE 104, Direct Testimony of Amanda R. King, at 20:4-21:6.

¹⁷ HE 104, Direct Testimony of Amanda R. King, at 20:4-9; Hearing Exhibit 110, Supplemental Direct Testimony of James F. Hill, p.10.

¹⁸ HE 104, Direct Testimony of Amanda R. King, at 21:12-13.

¹⁹ HE 102, Direct Testimony of Brooke A. Trammell, at 31:3-32:2.

consistent with the intent of SB07-100 and with the reasoning in prior CPCN approvals such as those in Decision No. C11-0288, issued March 23 2011 in consolidated Proceeding Nos. 09A-324E and 09A-325E, and Decision No. R14-1405, issued November 25, 2014 in Proceeding No. 14A-0287E.

b. Cost Estimates

22. In accordance with Rule 3102(b)(IV), 4 *Code of Colorado Regulations* (CCR) 723-3 of the Commission's Rules Regulating Electric Utilities, Public Service included estimated costs of the proposed Project itemized as land costs, substation costs, and transmission line costs.²⁰ The overall cost estimate for the Pathway Project presented by the Company is approximately \$1.695 billion and \$247 million for the MVL Extension. Of that overall cost estimate, the Company anticipates the transmission line costs to total \$1.379 billion, of which \$121 million is attributed to land costs. The Company anticipates substation costs to total \$316 million, of which \$122 million is associated with land costs.²¹ While the Company chose not to present a contingency range for the Pathway Project cost estimates, it does include risk reserve amounts for anticipated risks.

c. Project Alternatives

23. Public Service explains that it evaluated alternatives to the Pathway Project through the stakeholder process of the Colorado Coordinated Planning Group 80x30 Task Force (CCPG 80x30 TF).²² The CCPG, a joint high-voltage transmission planning forum that is a

²⁰ See HE 105, Direct Testimony of Brian J. Richter and attachments RJR 1-5; HE 115 Rebuttal Testimony of Brian J. Richter.

²¹ Application, at ¶¶ 7-9; HE 105, Direct Testimony of Brian J. Richter, at 32:11.

²² Application, at ¶ 7.

subregional planning group under the WestConnect planning region,²³ launched the 80x30 TF in August 2020 to provide a platform for stakeholders to collaboratively identify transmission infrastructure that will enable utilities to meet Colorado's emission reduction goals.²⁴

24. The CCPG 80x30 TF performed transmission steady state power flow studies that modeled a benchmark case and a series of transmission-build alternatives, each with the assumption that 3,000 MW of new renewable generation and 3,000 MW of existing renewable generation would need to be simultaneously dispatched on Public Service's system to meet the 80 percent emissions reduction target by 2030 and the Company's projected 2030 peak summer load.²⁵ In the benchmark case, generation was added at locations available on the existing system, including planned additions through 2030. Public Service explains that this benchmark case shows the existing transmission system is "full," such that the existing system will not be able to reliably serve new generation in ERZs 1, 2, 3, and 5, which would endanger the Company's ability to achieve its clean energy target for 2030 under SB19-236.²⁶ The Company also asserts that adding more renewable generation to its system without transmission infrastructure to access eastern Colorado would most likely burden Public Service's customers with extra costs in the long run, because developers would be forced to develop very long gen-ties or locate renewable resources in areas around existing transmission that have inferior renewable sources.²⁷

²³ HE 104, Direct Testimony of Amanda R. King, at 41:15-41:20.

²⁴ *Id.* at 41:08-41:14.

²⁵ *Id.* at 42:21-43:17; 47:1-49:2.

²⁶ HE 101, Direct Testimony of Alice K. Jackson, at 41:1-42:10; HE 104, Direct Testimony of Amanda R. King, at 51:18-14.

²⁷ HE 104, Direct Testimony of Amanda R. King, at 71:20-72:2.

25. The CCPG 80X30 TF studied six transmission-build alternatives in addition to the Pathway Project. For each option, the study models assumed that the majority of the 3,000 MW output from new generation would be injected at various substations, based on expected locations for new renewable generation. The Company explains that the alternatives were not pursued due to: the failure to facilitate increase generation access in all of ERZs 1, 2, 3, and 5; reliability concerns; higher reactive power requirements than the chosen alternative; or requiring greater substation interconnects than the chosen Pathway Project.²⁸ Thus, according to the Company, the Pathway Project “emerged as the top performer” because it provided the overall best study results from a reliability and resource diversity perspective and was identified to have the greatest and most cost-effective injection and transfer capacity, with opportunities for future expansion.²⁹

3. Nonunanimous Comprehensive Settlement Agreement

26. The Settling Parties filed a Motion for Approval of the Settlement Agreement on November 9, 2021. The Settlement Agreement resolves all material issues as identified by the Settling Parties, including that:

- a) The Company has met its burden of proof and so the Commission should approve a CPCN for the Pathway Project (Segments 1 – 5);³⁰
- b) The Company has presented adequate cost information in support of its \$1.695 billion cost estimate for the Pathway Project as well as the MVL Extension;
- c) The construction sequencing and timeline presented by the Company is reasonable and in the public interest;³¹

²⁸ Application at ¶ 17.

²⁹ HE 104, Direct Testimony of Amanda R. King, at 70:26-71:10.

³⁰ Hr. Ex. 119, Non-Unanimous Comprehensive Settlement Agreement (filed Nov. 9, 2021) (Settlement Agreement), at ¶¶ 1-2.

³¹ Settlement Agreement, at ¶ 5.

- d) Recovery of the Pathway Project costs through the Transmission Cost Adjustment (TCA) is appropriate and no presumption of prudence will attach to the cost estimates for the Pathway Project;³²
- e) The Settlement Parties agree on design of an appropriate PIM, reflected in Appendix 1 to the Settlement Agreement;³³
- f) The expected maximum magnetic field and noise levels associated with the Pathway Project are reasonable and require no further mitigation or prudent avoidance measures;³⁴
- g) Public Service will present as part of any future transmission CPCN applications associated with the 2021 ERP and CEP follow-on transmission investment, a detailed explanation of Advanced Transmission Technologies (ATTs) considered for any project;³⁵
- h) The Commission should grant a conditional approval and finding of need for the MVL Extension in the final approved resource plan in Proceeding No. 21A-0141E. The Settling Parties established modeling parameters for the MVL Extension, and agreed on the \$247 million cost estimate for the MVL Extension, and as well as on specific PIM, noise and magnetic field levels, and future cost recovery terms for the MVL Extension;³⁶
- i) Semi-annual reports will be filed within this Proceeding detailing, among other information, actual Project expenses, modifications to forecasted expenditures, explanation of any material changes to cost and installation schedule, and overall Project schedule and status;³⁷
- j) The Commission should delay determination of any issues associated with statutory interpretation of § 40-2-125.5(5), C.R.S., and the scope of the “clean energy plan revenue rider” until Proceeding No. 21A-0141E;³⁸
- k) The Commission should open a miscellaneous proceeding to solicit further comments and study on transmission solutions into and out of the San Luis Valley;³⁹
- l) The Commission should adopt specific language related to the prohibitory cost of undergrounding transmission lines of the Pathway Project;⁴⁰ and
- m) While Public Service does not anticipate a joint ownership/partnership for the Pathway Project at this time, if such an arrangement materializes in the future,

³² Settlement Agreement, at ¶ 6.

³³ Settlement Agreement, at ¶¶ 7-14.

³⁴ Settlement Agreement, at ¶ 15.

³⁵ Settlement Agreement, at ¶ 16.

³⁶ Settlement Agreement, at ¶¶ 17-24.

³⁷ Settlement Agreement, at ¶¶ 25-27.

³⁸ Settlement Agreement, at ¶ 28.

³⁹ Settlement Agreement, at ¶ 29.

⁴⁰ Settlement Agreement, at ¶ 30.

Public Service will make the appropriate filing(s) with for Commission review and approval.⁴¹

4. Partial Stipulation

27. The Stipulating Parties filed a Motion for Approval of Partial Stipulation on November 9, 2021. The Stipulating Parties agree the Commission should:

- a) Grant a CPCN limited to Segment 2⁴² and the proposed expanded or newly built substation facilities at Pawnee, Canal Crossing, and Goose Creek;⁴³
- b) Grant a conditional CPCN for Segments 1, 3, 4, and 5 and the associated substations as part of or following the Phase II of Public Service's 2021 and 2022 CEP & ERP proceeding, if the Commission approves a final CEP with a minimum total nameplate capacity of 2,925 MW (75% of the Company's estimate of Power Pathway-interconnected resources it expects to acquire via the ongoing ERP & CEP proceeding) committed to interconnect to the Project;⁴⁴
- c) Consider additional conditions on the CPCN to promote opportunities for cost-effective planning and construction activities, including coordinated regional transmission planning and competitive bidding;⁴⁵
- d) Grant a conditional approval and finding of need for the MVL Extension in this Proceeding, subject to a conditional approval of Segment 3 and inclusion of the MVL Extension in the Company's final approved 2021 CEP and ERP;⁴⁶ and
- e) Hold the Company to a performance plan under which the Company's provided Project budget, including risk reserve and all categories of construction and planning costs, would be utilized as the PIM target and not subject to adjustments in future proceedings; 10% of cost savings relative to the Project budget would be returned to shareholders, and 90% returned to ratepayers.⁴⁷

⁴¹ Settlement Agreement, at ¶ 31.

⁴² The Partial Stipulation defines the Segment 2 portion of the Pathway Project: "Segment 2 would create a new 345 kV transmission loop running from Pawnee Substation east to near Yuma, Colorado, then south-southeast to Goose Creek Substation, and then back west to Missile Site Substation using the existing Rush Creek Gen-Tie." Joint Stipulation, p.3, fn. 2.

⁴³ Hr. Ex. 1103, Partial Stipulation (filed Nov. 9, 2021) (Partial Stipulation), at ¶ 1.

⁴⁴ Partial Stipulation, at ¶¶ 4-6.

⁴⁵ Partial Stipulation, at ¶ 7.

⁴⁶ Partial Stipulation, at ¶ 10.

⁴⁷ Partial Stipulation, at ¶¶ 11-12.

5. Hearings and Evidentiary Record

28. At the evidentiary hearing on November 15 through 17, 2021, the Commission admitted the documents listed on Hearing Exhibit (HE) 2100 into evidence which represented all prefiled testimony in the Proceeding. HEs 1702, 1703, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 100, 113, 119, 1902, 323, 324, 314, 304, 316, 1102, 115, 1400-Rev. 1, 1400.17, 1103, 1401, 1415, 1418, and 1419 were offered and admitted into the record during the evidentiary hearing. At hearing, the Commission took also administrative notice of HEs 325, 321, 317, 322, 318, and 1412. In addition, the administrative record for this Proceeding includes numerous written public comments.

29. No party provided written testimony in support of the Settlement Agreement or the Partial Stipulation. At the Hearing, Company witnesses Ms. Brooke Trammell, Ms. Amanda King, Mr. Liam Noialles, and Mr. Byron Craig testified. Ms. Brooke Trammell and Mr. Gene Camp of Staff also provided live direct testimony in support of the Settlement Agreement.⁴⁸ Mr. James Dauphinais, Mr. Christopher Clack, Mr. Chris Neil, and Dr. Scott England testified on behalf of UCA. Mr. James Dauphinais additionally provided live direct testimony in support of the Partial Stipulation. In addition, Ms. Sharon Segner testified on behalf of LS Power.

⁴⁸ In response to Notices filed by Climax and UCA on November 12 and November 15, 2021 respectively, which informed the Commission of their intent to provide live testimony in support of the Partial Stipulation, the Commission ordered the Settling Parties to provide up to two witnesses to support the Settlement Agreement with live direct examination and the Stipulating Parties to provide up to one witness to support the Partial Stipulation with live direct examination.

6. Party Positions⁴⁹

a. Settling Parties

30. Generally, the Settling Parties contend that the record supports the need for the Pathway Project and that without the Project, Public Service will be unable to achieve the emission reduction targets mandated by SB 19-236.⁵⁰ Several of the Settling Parties assert that in contrast to the historical approach of building transmission following a decision to build a generating resource, new transmission capacity is now needed in advance of the renewable generation that would utilize it.⁵¹ The Settling Parties argue that approval of the full Pathway Project will provide developers certainty in Public Service's competitive solicitation in the 2021 ERP and CEP, increasing competition and resulting in lower-cost bids.⁵² They also assert the Pathway Project will provide additional benefits beyond positioning Public Service to meet emission reduction targets, including enabling optimal access to federal tax credits, improved reliability and resilience, reduced production costs, reduced curtailment, increased import and export capacity, improved voltage stability, reduced need for power purchases, reduced line losses, provision of ancillary services, reduced need for reserve capacity, and increased diversity of resources on Public Service's system.⁵³

31. The Settling Parties raise various concerns with the terms expressed in the Partial Stipulation. Several of the Settling Parties contend the "piecemeal approach" to granting CPCNs

⁴⁹ In light of the filed Settlement Agreement and the filed Partial Stipulation, we focus on the positions of the parties presented at the evidentiary hearing and in their SOPs.

⁵⁰ CEO SOP, pp. 5-10; Interwest SOP, p. 11; Public Service, Trial Staff and RMELC/CBCTC Joint SOP, pp. 3, 5-9; WRA SOP pp. 4-6; COSSA SEIA SOP, pp. 1-3.

⁵¹ Interwest SOP, pp. 16-17; Trial Staff and RMELC/CBCTC Joint SOP, pp. 4, 9.

⁵² CIEA SOP, pp. 9-10, 12-14; COSSA/SEIA SOP, pp.3-4; Public Service, Trial Staff, and RMELC/CBCTC Joint SOP, pp. 4, 6, 11, 20.

⁵³ Interwest SOP, pp. 3-6, 12-14; Public Service, Trial Staff, and RMELC/CBCTC Joint SOP, pp. 5-9; CEO SOP, p. 17; WRA SOP pp. 5-9; CIEA SOP, pp. 14-16; COSSA/SEIA SOP, pp. 3-4.

advocated for in the Partial Stipulation is “inconsistent with prudent transmission planning process[es] and principles.”⁵⁴ They note that granting a CPCN for Segments 1, 3, 4, and 5 on a contingent basis would increase costs, prevent the Company from optimizing potential federal tax credits, and lessen certainty for bidders in Phase II of the Company’s 2021 CEP and ERP.⁵⁵ Many Settling Parties also argue that the Partial Stipulation’s partial approach would ignore the significant reliability benefits of the Project’s looped design, and that the Stipulating Parties inappropriately focus on a 2025 time horizon rather than 2030 and beyond.⁵⁶ Settling Parties call the additional competitive planning and bidding provisions in the Partial Stipulation “unworkable” and “vague.” They note that the Project is local in scope, incorporated the appropriate planning processes, and in compliance with the Company’s OATT.⁵⁷

32. Several parties noted support for a Settlement Agreement PIM within their SOPs. The Company, Staff, and RMELC/CBCTC jointly assert that the PIM proposed in the Settlement Agreement is reasonable and well supported by the record, and that no party has contested the Company’s cost estimates. They claim that ratepayers are protected since the Company is not requesting a presumption of prudence in this proceeding and all costs will be subject to a future prudence review. They contend it is reasonable to exclude siting, land rights costs, and material costs from the PIM since these are out of the Company’s control.⁵⁸ CEO also supports the exclusion of land-related, materials, and environmental compliance costs from the PIM. It states that consumer safeguards remain in place if the Commission adopts the Settlement Agreement

⁵⁴ Public Service SOP, p. 16.

⁵⁵ *Id.* at 17-18.

⁵⁶ Public Service SOP, p. 18; WRA SOP, pp. 19-21.

⁵⁷ *Id.* at pp. 22-27.

⁵⁸ Public Service Joint SOP, pp. 9-13.

PIM because the Company is not requesting a presumption of prudence.⁵⁹ WRA is supportive of the PIM provided for in the Settlement Agreement, but suggests that if the Commission modifies it, it should retain the exclusion of environmental compliance costs from the PIM calculation. WRA notes that it is very difficult to quantify at this time, impacts from the environmental permitting challenges the Company may face in developing the Power Pathway Project. WRA contends that excluding environmental compliance costs from any revisions to the PIM will remove any financial incentive or disincentive the Company could have related to environmental compliance. WRA also states that going too far in creating risks for the Company could “chill the appetite for the project.”⁶⁰

33. Additionally, in light of comments made by the Commissioners at the evidentiary hearing , the Company, Staff, and RMEL/CBCTC reiterate support of the PIM as presented in the Settlement Agreement, but offer the Commission the option of a modified PIM that would provide greater incentive for on-time performance.⁶¹ They state that increasing the 2025 return on equity (ROE) adjustment by 75 basis points compared to the original Settlement Agreement PIM proposal would create a larger financial incentive for the company to perform in a timely manner and would continue to “adhere to the overarching policy and legal objectives that a PIM should adhere to.”⁶²

34. The Company, Staff, and RMELC/CBCTC argue in their Joint SOP that the Company has a statutory right pursuant to § 40-5-101(4)(a), C.R.S., to recover prudently incurred costs and that the Partial Stipulation PIM might prevent this if costs exceed the budget

⁵⁹ CEO SOP p. 19.

⁶⁰ Statement of Position of Western Resource Advocates (WRA SOP), p. 16.

⁶¹ Public Service Joint SOP, at pp. 14-15.

⁶² *Id.*

cap established by the Stipulation PIM. They contend that the Stipulation PIM violates principles of an appropriate PIM in that it: 1) does not reflect whether an intended goal is being met; 2) does not define how any savings would be distributed to customers or shareholders or over what time period; and 3) would hold the Company responsible for cost categories beyond its control. They also contend that the Partial Stipulation is internally inconsistent, because it fails to present how the PIM would interact with the delays and additional costs its proposed coordinated regional planning process and competitive bidding process would impose.⁶³

35. Public Service, RMEL/CBCTC, and Staff raise several concerns with the terms expressed in the Partial Stipulation. They contend the “piecemeal approach” to granting CPCNs advocated for in the Partial Stipulation is “inconsistent with prudent transmission planning process[es] and principles.”⁶⁴ They note that approving the CPCNs for Segments 1, 3, 4, and 5 on a contingent basis would increase costs, prevent the Company from optimizing potential federal tax credits, and lessen certainty for bidders in Phase II of the Company’s 2021 CEP and ERP. The Partial Stipulation’s “partial approach” would also ignore the significant reliability benefits of the Project’s looped design. The Settling Parties also call the additional competitive planning and bidding provisions in the Partial Stipulation “unworkable” and “vague.” They note that the Project is local in scope, incorporated the appropriate planning processes, and complies with the Company’s OATT.

36. Public Service, RMEL/CBCTC, and Staff also put forward a joint recommendation concerning the concept of an “Owner’s Engineer” discussed by Chairman Eric Blank during the evidentiary hearing. Staff and Public Service suggest that the

⁶³ *Id.*, pp. 20-21.

⁶⁴ *Id.*, p. 16.

Commission direct them to work together collaboratively to develop an appropriate scope of work and approach to retaining a third party for the Pathway Project oversight. Staff and Public Service commit to updating the Commission on their progress through a notice filing or status update within 90 days of a final written decision in this Proceeding.

37. Prior to agreement between the Settling Parties, Staff witness Mr. Camp argued that the rate impact cap established by § 40-2-125.5(5), C.R.S., is implicated in this Proceeding because the Pathway Project is a component of Public Service's 2021 CEP and is thus a "clean energy plan activity." A Joint Brief filed by Public Service and other parties disagreed with this position. As previously noted in this Decision, Staff is a signatory to the Settlement Agreement, which defers interpretation of § 40-2-125.5(5), C.R.S., to Proceeding No. 21A-0141E, the proceeding concerning Public Service's 2021 ERP and CEP. Additionally, Staff witness Mr. Gene Camp explained at Hearing that Staff had previously recommended obtaining cost estimates for using alternative conductors for the Pathway Project, and that it had withdrawn this recommendation.

38. Pueblo filed an SOP to reiterate its' support of the Settlement Agreement, despite initial opposition to the Project. Pueblo specifically supports the language regarding undergrounding of the transmission lines in paragraph 30 of the Settlement Agreement and the proposed sole ownership of the Project by Public Service.⁶⁵ Pueblo takes no position regarding the position of the transmission lines with respect to siting or permitting.⁶⁶

39. Black Hills originally did not oppose the Settlement Agreement but was not a signatory to it.⁶⁷ However, Black Hills stated within its SOP that it supports the Settlement

⁶⁵ Pueblo County SOP at p. 2.

⁶⁶ Pueblo County SOP, at p. 3.

⁶⁷ Joint Motion to Approve Non-unanimous Comprehensive Settlement Agreement, p. 3.

Agreement because it does not preclude Public Service from continuing to consider and assess opportunities for partnership arrangements for the Pathway Project and because it defers interpretation of § 40-2-125.5(5), C.R.S., to Proceeding No. 21A-0141E.⁶⁸

40. PRPA is a party to the Settlement Agreement but did not file an SOP or provide testimony supporting the Settlement Agreement. Additionally, the Settling Parties assert that Tri-State and CSU, which did not file SOPs, are not signatories to the Settlement Agreement but also do not oppose the Settlement.

b. Stipulating Parties

41. The Stipulating Parties argue that Public Service and the Settling Parties have not sufficiently demonstrated the need for the Pathway Project, apart from Segment 2. They contend that Segments 1, 3, 4, and 5 will provide “almost no incremental benefit through 2027 in terms of power-transfer capability and accessing federal tax credits assuming that Segment 2 is completed on time.”⁶⁹ They argue that granting a CPCN for Segments 1, 3, 4, and 5 now would risk binding ratepayers to costly transmission investment that may not be needed at this time, and would foreclose opportunities to explore more economical alternatives such as competitive bidding or additional regional planning.⁷⁰ Thus, the Stipulating Parties urge the Commission to condition approval of Segments 1, 3, 4, and 5 on a showing of need in Phase II of the 2021 ERP and CEP, specifically the Commission’s approval of a final CEP with a minimum total nameplate capacity of 2,925 MW. They urge the Commission to condition approval of the MVL Extension on the approval of Segment 3 and the inclusion of the MVL Extension in the approved resource plan in the 2021 ERP and CEP.

⁶⁸ Black Hills SOP, pp. 3-5.

⁶⁹ UCA SOP, at p. 9.

⁷⁰ CEC and Climax SOP, at p. 8.

42. The Stipulating Parties also suggest an alternative PIM structure to addresses comments made by the Commissioners at the evidentiary hearing.⁷¹ They propose that the Commission should derive a PIM that includes “all Power Pathway costs in any PIM, but it could adjust how certain costs are treated,” acknowledging that certain costs are less in the Company’s control than others.⁷² The Stipulating Parties also urge the Commission to include a cost cap as an incentive to the Company and a protection for ratepayers, but note the cost cap could apply in different ways across different categories of costs.⁷³ Finally, they urge the Commission to include strong incentives for the Company to meet in-service dates and that the “Company should pay for all excess costs to customers for any lost tax credit benefits.”⁷⁴

43. The Stipulating Parties contend that their proposed PIM protects consumers better than the Settlement Agreement PIM by imposing a total budget cap that applies to all cost categories and providing an incentive for the Company to meet the critical 2025 deadline in service dates.⁷⁵ They argue that the PIM proposed in the Settlement Agreement is too weak to ensure budgetary discipline or adherence to in-service dates, and note that in some scenarios the shareholder return on cost overruns could significantly exceed the proposed penalty. They contend that Settlement Agreement PIM is unfair to ratepayers in that it places only 2 percent of the risk of cost overruns on the Company.⁷⁶ The Stipulating Parties note that the PIM proposed in the Settlement Agreement does not contain a cost cap, which they argue is warranted given the

⁷¹ UCA SOP, at pp. 5, 6, and 22.

⁷² UCA SOP, at p. 22.

⁷³ *Id.*

⁷⁴ *Id.* at 24.

⁷⁵ CEC and Climax SOP, pp. 13-14; UCA SOP, pp. 21-22.

⁷⁶ CEC’s and Climax’s Post-Hearing SOP, at pp. 14-18; UCA SOP, at pp. 15-22; Hg. Tr. Day 2, at 50:8-52:25 (testimony of Staff witness Gene Camp).

proposed \$363 million risk reserve.⁷⁷ They contend further that the Company actually has at least some control over the cost categories that are excluded from the Settlement Agreement PIM, and that it is therefore unfair to ascribe all risks in these categories to ratepayers.⁷⁸

44. The Stipulating Parties note further that the PIM proposed in the Settlement Agreement provides no penalty for failure to put Segments 2 and 3 into service by 2025 if costs in included categories are less than 105 percent of the budget. Even if they exceed that amount, the penalty pales in comparison to the value of lost tax credits, estimated at a net present value of \$300 million per GW for new wind resources.⁷⁹

45. The UCA also notes that the risk reserve contains the Company's estimates of the costs of the risks it anticipates and is ample to account for inflation and higher costs of materials and labor. UCA notes further that the risk reserve includes a significant number of entries labeled "unknown risks" that have a probability of 100 percent of occurrence. It contends that these "unknown risks" are in fact similar to what has been labeled "contingency" in other proceedings. UCA argues that the Company should be held to its estimates, just as independent power producers would be.⁸⁰

c. Other Parties

46. Holy Cross is not party to the Settlement Agreement or the Partial Stipulation. It did not file an SOP or present any testimony.

47. LS Power, in its SOP, urges the Commission to consider competitive transmission procurement prior to approving the Pathway Project because competition will result in

⁷⁷ UCA SOP, at pp. 11-12.

⁷⁸ CEC's and Climax's Post-Hearing SOP, pp. 5, 17-18; UCA SOP, at pp. 9-11.

⁷⁹ CEC's and Climax's Post-Hearing SOP, p. 19; UCA SOP, at pp. 16-18.

⁸⁰ UCA SOP, at pp. 13-14.

substantial cost savings and cost certainty for ratepayers.⁸¹ LS Power contends the Commission should deny both the Settlement Agreement and Public Service's Application because the Pathway Project is a regional project and was not planned through existing regional planning processes "as required by FERC Order No. 1000."⁸² More specifically, LS Power suggests that the Commission grant a CPCN for only as much transmission as is necessary to enable bidders to access federal tax credits and that additional transmission capacity be procured through other avenues, such as competitive procurement.⁸³

48. In its SOP, CORE requests the Commission condition any approval of the Power Pathway on the requirement that the Company "engage in good-faith negotiations with interested utilities that serve Colorado electric customers and are willing and able to invest in joint ownership of the Power Pathway."⁸⁴ CORE asserts the Commission should consider including parameters "such as a timeline for study and negotiations, a notification and/or qualification requirement for interested utilities, appointment of Commission Staff or another third-party neutral monitor, and future reporting requirements for the Company and interested utilities" when approving a CPCN for the Pathway Project.⁸⁵

49. Mr. Miloshevich contends in his SOP that only some new transmission is needed to access the best renewable resources. He argues that the combination of existing injection capacity, the opportunity to obtain additional injection capacity through the application of ATTs, and increased local distribution-connected generation and DSM procured via the ongoing

⁸¹ SOP of LSP Transmission Holdings II, LLC and Western Energy Connections, LLC, at pp. 5-12.

⁸² LS Power, SOP, at p. 13.

⁸³ LS Power SOP, at pp. 2-5.

⁸⁴ CORE SOP, at p. 2.

⁸⁵ CORE SOP, at p. 8.

2021 ERP and CEP proceeding would reduce the need for additional transmission injection capacity requested by Public Service.⁸⁶ Mr. Miloshevich also addresses carbon-core conductor technology and suggests additions to the terms of the Settlement Agreement which would “advance the adoption of [] lower-cost modern technologies.”⁸⁷ He suggests the Settlement Agreement provisions addressing ATTs be replaced by a requirement that Public Service evaluate ATT opportunities for all future CPCNs, evaluate carbon-core conductor for the Power Pathway Project specifically, adjust the PIM to incentivize ATT deployment, and require the Company conduct a formal study of ATTs on the Public Service system.⁸⁸ He argues that inertia, misaligned financial incentives, and an entrenched transmission planning process are barriers to utility adoption of ATT, and that it therefore falls to the Commission to require consideration of alternative transmission solutions.

50. While acknowledging flaws in his analysis of the savings potential of carbon-core conductors that were detailed by Company witness Byron Craig, Mr. Miloshevich takes issue with certain aspects of Mr. Craig’s analysis, specifically that Mr. Craig chose an inappropriate type of carbon-core conductor (CTC Global instead of TS Conductor), and that choice results in excessive incremental costs for carbon-core conductors relative to ACSR as well as inflation of installation costs by 15 percent.⁸⁹ Additionally, he contends that Mr. Craig used an inaccurately low \$/MWh value for energy saved through reduced line losses and then discounts those future savings using the Company’s weighted average cost of capital, which Mr. Miloshevich contends is inappropriate for costs that are passed through to customers via the ECA, and finally that in

⁸⁶ Miloshevich SOP, at pp. 4-5, 16-17.

⁸⁷ *Id.* at p. 6.

⁸⁸ Miloshevich SOP, at pp. 6-8.

⁸⁹ Miloshevich SOP, at p. 12.

estimating the value of reduced tower count enabled by carbon-core conductors, Mr. Craig assumed a cost per tower that is unsupported in the record and about 1/3 of that specified in the MISO Transmission Planning Guide.⁹⁰ Due to these choices, Mr. Miloshevich contends that the Commission should give Mr. Craig's rebuttal testimony little weight. Mr. Miloshevich also refers to evidence in the record demonstrating both capital and operational savings resulting from the application of carbon-core conductor from TS Conductor in a transmission project recently completed by Basin Electric.⁹¹

C. Analysis and Findings

1. Burden of Proof

51. Except as otherwise provided by statute, the Administrative Procedure Act imposes the burden of proof in administrative adjudicatory proceedings upon the proponent of an order. § 24-4-105(7), C.R.S. Therefore, any party seeking an order by the Commission bears the burden of proof with respect to the relief sought by a preponderance of the evidence. *Id.*; C.R.S.; Rule 1500 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1. However, as in this case, since the Commission must determine whether the Settlement Agreement provisions proposed by the Joint Parties are not contrary to the public interest, the burden of proof lies with the Settling Parties.⁹² This standard requires the finder of fact to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Dep't. of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985). If an intervenor advocates that the Commission should adopt its position, then that intervenor must meet the same burden of proof with respect to its

⁹⁰ *Id.* at 12-13.

⁹¹ HE 1703, Miloshevich Response to Public Service 3-2; HE 1703, Attachment LM-1; Hearing Exhibit 1703, Attachment LM-2.

⁹² Similarly, the parties supporting the Partial Stipulation, and thus advocating that the Commission adopt their position, must meet the same burden of proof with respect to the Partial Stipulation.

advocated position. The evidence must be “substantial evidence,” which the Colorado Supreme Court has defined as “such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion ... it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.” *See, e.g., City of Boulder v. Pub. Utils. Comm’n*, 996 P.2d 1270, 1278 (Colo. 2000).

52. Further, the Commission has an independent duty to determine matters that are within the public interest. *Caldwell v. Public Utilities Commission*, 692 P.2d 1085, 1089 (Colo. 1984). As a result, the Commission is not bound by proposals made by the parties.

2. Certificate of Public Convenience and Necessity for the Pathway Project

a. Standard

53. Public utilities are required under § 40-5-101, C.R.S., to obtain a CPCN from the Commission prior to constructing a new facility or system or the extension of an existing facility or system. In determining whether to grant a CPCN, the Commission considers whether the utility, by a preponderance of the evidence, has established: (1) a present or future need for the facility; (2) that existing facilities are not reasonably adequate and available to meet that need; and (3) that the utility has evaluated alternatives to the proposed facility. *e.g.*, Decision No. R14-1405, issued November 25, 2014, Proceeding No. 14A-0287E. The impact on utility rates, and the magnitude of the underlying operating, maintenance, and capital costs, is also relevant to the public interest analysis. *City of Boulder*, 996 P.2d at 1277, 1279, n.5.

54. Under § 40-5-101(4), C.R.S., a public utility is entitled to recover the costs that it prudently incurs in constructing transmission facilities for which the utility has obtained a CPCN. These prudently incurred costs may be recovered through a separate rate adjustment

clause until the costs have been included in the utility's base rates, and the recovery shall be calculated using the utility's weighted average cost of capital, including its most recently authorized ROE on equity, on the total balance of construction work in progress related to such transmission facilities. § 40-5-101(4), C.R.S.

b. Discussion

55. The Power Pathway Project is one of the most expansive and significant transmission proposals to be considered by the Commission. This proposal comes at a critical time for Public Service, Colorado's largest utility, to transform its system and the ways in which it reliably generates and delivers energy for its customers in advance of clean energy targets applicable to the Company in 2030 and economywide greenhouse gas emission reduction goals. We also recognize that the costs associated with the Pathway Project are significant as proposed, and that a project of this magnitude may result in the potential for substantial cost overruns. It is with this awareness that we carefully and thoroughly considered the voluminous record in this Proceeding.

56. As an initial matter, the Commission does not agree with the contention of LS Power that the Pathway Project is a regional project or that the Company failed to follow any necessary Federal Energy Regulatory Commission (FERC) processes. Public Service must comply with the transmission project planning provisions in its Joint Open Access Tariff for local transmission projects. The Power Pathway Project is local in scope because it is wholly owned by Public Service, is built for the benefit of the existing system, and serves the Company's customer base. The Commission declines to find that the Company should have submitted the Project to the WestConnect Regional Process as a regional project for transmission planning.

57. We agree with the Settling Parties that the Company has met its burden of proof and has sufficiently demonstrated the need for all five segments of the Pathway Project. Without the additional injection capacity provided by the Project, Public Service will be unable to interconnect the quantity of renewable resources it requires to decarbonize its generation fleet in accordance with the mandates of SB19-236. More specifically, we are persuaded by the Settling Parties that without the proposed transmission backbone in Eastern Colorado allowing for access to solar and wind resources in ERZs 1, 2, 3, and 5, it is very unlikely that Public Service will be able to meet the 80 percent emissions reduction target by 2030 and its projected 2030 peak summer load.⁹³ We agree with the Settling Parties that waiting to approve the Pathway Project until after the approval of the development or acquisition of new renewable generation would threaten the timely completion of necessary transmission, so that the transmission lines may not be constructed by the time the new generation resources are ready to be placed in service and necessary to meet emission reduction targets.

58. Further, we are convinced by testimony of Public Service and the Settling Parties that the Project is appropriately sized, contrary to arguments put forth by the Stipulating Parties, LS Power, and Mr. Miloshevich. Through its testimony, and specifically its discussion of alternatives considered by the CCPG 80X30 TF, we find Public Service has demonstrated the need for transmission infrastructure that can accommodate coincident injection of approximately 3,000 to 3,500 MW of electric power from new generation. While the Company and Settling Parties note that the preferred portfolio in the 2021 ERP and CEP would leave some unutilized capacity on the Pathway Project, we are nonetheless convinced the Project will be fully utilized

⁹³ In the event of material changes concerning the Company's plans, for example if the final outcome in the 2021 ERP and CEP Proceeding demonstrates a significant decrease in expected resource acquisition, the Commission may entertain appropriate avenues to ensure our finding of need for the CPP remains applicable.

in the near future as Public Service and other utilities take further steps towards emission reduction goals beyond 2030 and meet other initiatives such as beneficial electrification.

59. We also find that the construction of a networked transmission backbone in Eastern Colorado, in a looped configuration that allows access to diverse wind and solar resources, will provide numerous benefits to ratepayers beyond enabling Public Service and the State of Colorado to meet emission reduction targets. The Company and the Settling Parties have established that the Pathway Project will improve the reliability and resiliency of the Colorado transmission system,⁹⁴ which is increasingly important as the state depends on larger numbers of variable energy resources and will provide many operational benefits.

60. While the Company did not quantify the benefits associated with centralized transmission development, we nevertheless agree that the numerous long radial lines and gen-tie lines necessary to reach resources in remote areas in Eastern and Southeastern Colorado in the absence of the Pathway Project would, in the long run, increase costs and result in reduced reliability. We agree that the alternative – siting renewable development near existing transmission – would increase costs as bidders compete for scarce productive land.

61. Accordingly, we reject the Stipulating Parties' proposal, and the proposals of LS Power and Mr. Miloshevich, to grant a CPCN for only part of the Pathway Project. The Stipulating Parties' contention that Segments 1, 3, 4, and 5 should be contingent on a specified MW amount of bids received in Phase II of the 2021 ERP and CEP ignores not only the Company's demonstration of present and future need, but also reliability benefits of the entire looped Project and the significant cost benefits of providing bidders with certainty as to

⁹⁴ *E.g.*, Hr. Ex. 2000, Answer Testimony of Kenneth Wilson; Hr. Ex. 1400, Answer Testimony of Arne Olsen; Hr. Ex. 700, Answer Testimony of P. Jay Caspary.

transmission capacity and the date on which that capacity will be available at specific interconnection locations. Further, certain Stipulating Parties and LS Power contend that portions of the Project should be delayed so that competitive procurement or additional regional planning options may be explored. However, this ignores that either option would require substantial Commission process and additional time, including time for potentially contentious Commission rulemakings, as well as time for the development of a regional market and transmission planning activities of the regional market.⁹⁵ Given impending emission reduction targets, the resilience and reliability benefits offered by a looped configuration, and the long timelines involved with transmission construction, we decline to take a piecemeal approach to approval of the Pathway Project.

62. We find that Public Service and the Settling Parties have demonstrated that the public convenience and necessity requires construction of the Pathway Project. Existing facilities are not adequate or available to meet the need for increased transmission capacity to serve required new renewable generation or to provide the reliability and resiliency necessary to support a system highly dependent on variable resources, and other alternatives will not negate the need for the Project. We conclude that the terms of the Settlement Agreement at paragraphs 1 and 2 are in the public interest, and therefore grant a CPCN for Segments 1 through 5 of the Pathway Project. To be clear, this Decision grants a single CPCN for the entire Pathway Project.

63. While we grant a CPCN for the Pathway Project, we are keenly aware that ratepayers will be impacted by the substantial costs associated with the Project and we are reminded of our statutory duty to ensure safe and reliable utility service at just and reasonable rates. Indeed, a need finding is implicitly contingent on certain cost expectations. A line that is

⁹⁵ This issue is further examined in Section I.C.8.c.

needed at one cost, may not be required at a much higher cost. To ensure that the cost of the Pathway Project and the burden on ratepayers does not outweigh the public interest in granting the Project a CPCN, and that the general cost expectations associated with the need finding are met, we implement a PIM that sufficiently incents Public Service to maintain cost containment and budgetary discipline as set forth in Section I.C.4 of this Decision.

c. Conditional CPCN for the MVL Extension

64. We determine that the Settlement Agreement's proposal for the MVL Extension is in the public interest. Public Service explains that although the extension is not required to meet its statutory emission reduction requirements, it would provide transmission infrastructure to support development in wind-rich areas of southeastern Colorado and would prevent the need for developers to build multiple costly, unreliable, and lengthy gen-tie lines to connect to the Pathway Project. We note that the Settling Parties' proposal to grant a conditional CPCN for the MVL Extension that would be triggered upon the inclusion of the extension in the final resource plan approved in Proceeding No. 21A-0141E is the same as the Stipulating Parties' proposal, excepting the Stipulating Parties' treatment of Segment 3. We find that approval of a final resource plan in the 2021 Public Service ERP and CEP that includes the MVL Extension would demonstrate need for the extension in an area not currently served by adequate transmission. We therefore conditionally grant Public Service a CPCN for the MVL Extension as proposed by the Settlement Agreement in paragraphs 17 to 23.⁹⁶ The PIM set forth in Section I.C.4.a would also be applicable to the MVL Extension, should the Company's CPCN be affirmed.

⁹⁶ The Commission does not adopt paragraph 24 of the Settlement concerning the PIM applicable to the MVL Extension.

d. Pathway Project Costs and Timeline

65. The Settling Parties agree that the construction sequencing and timeline as presented in Attachment BJR-5 is “reasonable and in the public interest” given the timing of the clean energy resource acquisition expected through the 2021 CEP and ERP and the 2030 clean energy target set by §40-2-125.5(3)(a)(I), C.R.S.⁹⁷ The Company proposes a completion date for construction and testing of Segments 2 and 3 on September 2, 2025, Segment 1 on May 14, 2026, and Segments 4 and 5 on May 13, 2027.⁹⁸ Notably, with the proposed schedule, Segments 2 and 3 would be in service in time to bring projects online prior to the end of 2025, when PTCs and ITCs on renewable energy projects are currently projected to expire.

66. The Commission finds the preliminary summary schedule provided by the Company⁹⁹ and projected in-service dates reasonable and in the public interest. The Company, and in turn the ratepayers, may face significantly increased costs for the loss of federal tax incentives if the Project is not delivered in time to interconnect those resources. We stress the importance of this Project remaining on time to meet the in-service dates as proposed.

e. Project Cost Recovery

67. We acknowledge that the Power Pathway Project is virtually unprecedented in scope and cost in Colorado history. The Commission is aware that a project of this magnitude will have a significant impact on rates charged by the Company to customers. As part of the decision-making process in this proceeding, the Commission, carrying out its primary function to ensure the health, safety and welfare of Colorado citizens, has balanced the significance of these rate impacts with the statewide public interest of expanded reliable transmission facilities,

⁹⁷ Settlement Agreement, at ¶ 5.

⁹⁸ HE 105, Direct Testimony of Brian J. Richter, Attachment BJR-5.

⁹⁹ See HE 105, Direct Testimony of Brian J. Richter, Attachment BJR-5.

especially in light of the Company's need to reduce emissions by 2030 and the overall state goal of carbon neutrality in the near-term future.

68. The Company is entitled to recover through a separate rate adjustment clause, the costs that it "prudently incurs in planning, developing, and completing" the construction or expansion of transmission facilities. § 40-5-101(4)(a), C.R.S. The Commission does not disagree that the Company may recover costs associated with the Power Pathway Project through the TCA rider. The Commission adopts this portion of the Settlement Agreement in paragraph 6.

69. The Settlement Parties agree that "no presumption of prudence will attach to the cost estimates for the Pathway Project" and that the Company bears the burden going forward to demonstrate actual costs incurred are prudent and reasonable when it seeks recovery of associated costs.¹⁰⁰ We agree with the Settling Parties on these points, and we expect that in addition to demonstrating that its actually incurred costs are prudent and reasonable, the Company will address whether its costs are within the estimates provided in this Proceeding. Therefore, we adopt Paragraph 6 of the Settlement Agreement.

3. Magnetic Field and Noise Levels

70. In its Application, Public Service requests a finding of reasonableness for the expected maximum magnetic field and noise levels included in the Application, in compliance with Rule 3206(e) – (f), 4 CCR 723-3 of the Commission's Rules Regulating Electric Utilities. The Settling Parties agree that the expected maximum magnetic field and noise levels associated with the Pathway Project are reasonable and require no further mitigation or prudent avoidance measures.¹⁰¹ No party has opposed such a finding of reasonableness. We agree with the Settling

¹⁰⁰ Settlement Agreement, at ¶ 6.

¹⁰¹ Settlement Agreement, at ¶ 15.

Parties, and find that the expected maximum magnetic field and noise levels associated with the Pathway Project are reasonable.

71. The Company also submitted the expected maximum magnetic field and noise levels for the MVL Extension, in compliance with Rule 3206(e) – (f), 4 CCR 723-3 of the Commission’s Rules Regulating Electric Utilities, and the Settling Parties agree that these expected levels are reasonable and require no further mitigation or prudent avoidance measures.¹⁰² As with the levels associated with the Pathway Project, no party has opposed such a finding of reasonableness. We again agree with the Settling Parties and find that the expected maximum magnetic field levels associated with the MVL Extension are reasonable, in the event the conditional CPCN granted for the MVL Extension becomes unconditional.

4. Performance Incentive Mechanism

72. Commission Staff put forth in its answer testimony the idea of implementing a PIM for the Pathway Project.¹⁰³ While the Company did not include a PIM in its direct case, it did propose one on rebuttal and the Settlement Agreement contains a PIM (Settlement Agreement PIM).¹⁰⁴ The Settlement Agreement suggests establishing a PIM focused on costs over which the Company claims are reasonably within its discretion and control, and that excludes costs over which it claims it does not exert such discretion and control.¹⁰⁵ The costs subject to the PIM would be those related to engineering, permitting, project management,

¹⁰² Settlement Agreement, at ¶ 22.

¹⁰³ See Hearing Exhibit 1500, Staff Witness Gene L. Camp Answer Testimony, Rev. 2, at pp. 36-39.

¹⁰⁴ Settlement Agreement, at ¶¶ 7-14.

¹⁰⁵ See Public Service Joint SOP, at p. 10.

construction, labor, and overhead.¹⁰⁶ The Settlement Agreement PIM excludes costs related to right-of-way, easements, environmental compliance, and materials.

73. The Settlement Agreement proposes a PIM calculated on a yearly basis evaluated for costs associated with the segments scheduled to be placed in-service during each calendar year. The Company targets Segments 2 and 3 and associated substations for completion in 2025, Segment 1 and related substation expansion for completion in 2026, and Segments 4 and 5 and related substations for completion in 2027.

74. Per the Settlement Agreement, outside of a positive and negative 5 percent dead band relative to the Company's cost estimate (including its risk reserve) within each year, a series of symmetrical ROE basis point adjustments apply.¹⁰⁷ Once costs are outside the dead band, an ROE adjustment applies to the return on excess costs or savings. The PIM structure applies three symmetrical adjustments that decrease or increase the ROE as costs become greater or less than the original Company cost estimate. If line miles for segments planned for completion in a given year exceed 110 percent of the line miles presented in the Company's Application, any savings will be returned to ratepayers.

75. According to the Settlement Agreement, the penalty or bonus calculated for expenditures in each completion year (2025, 2026, or 2027) would be amortized over ten years. The Company would collect any penalty or bonus through the TCA and if the amortization of a PIM penalty or bonus extends beyond the period in which associated Pathway Project capital is

¹⁰⁶ Settlement Agreement, at ¶ 8.

¹⁰⁷ Settlement Agreement, at ¶¶ 7-14.

recovered through the TCA, ratemaking treatment of a PIM penalty or bonus in the TCA is still reasonable.¹⁰⁸

76. The Settlement Agreement PIM includes certain provisions to incentivize meeting the in-service target dates. For example, if costs exceed 105 percent of budget for a completion year and the associated segments/substations are not placed in service by the end of that year, 50 basis points will be added to the associated penalty. If costs are below projections but the segments and substations for a given year are not placed into service by the end of that year, all savings will be returned to ratepayers (*i.e.*, there will be no bonus for the Company).

77. The Commissioners discussed at the Hearing and at the Commissioner's Weekly Meeting on November 24, 2021, the importance that any adopted PIM incentivizes timely performance. In response, the Company provided alternative considerations to the Settlement Agreement PIM in its SOP.¹⁰⁹ In its SOP, Public Service indicates that the Settling Parties "do not oppose" an increase of 75 basis points to the ROE adjustments for each tier of cost overrun or savings for segments and substations planned for completion in 2025 only (Segments 2 and 3).¹¹⁰

78. The Partial Stipulation provides an alternative PIM (Stipulation PIM) with a fundamentally different structure.¹¹¹ While the Stipulation PIM groups the Project segments into the same in-service years as proposed in the Settlement Agreement, it caps costs at the estimates the Company provides in its Application, inclusive of its risk reserve. The Stipulation PIM's cost caps include cost categories excluded by the Settlement PIM. No cost overruns would be borne by ratepayers. The Company would earn \$1 million of every \$10 million saved relative to its cost

¹⁰⁸ Settlement Agreement, at ¶¶ 7-14.

¹⁰⁹ Public Service Joint SOP, at pp. 14-15.

¹¹⁰ Public Service Joint SOP, pp. 16-17.

¹¹¹ Partial Stipulation, at ¶¶ 11-12.

estimates (including all categories of costs), the remainder going to ratepayers. Savings eligible for this 10 percent incentive will be calculated in increments of \$10 million, so that the Company would earn \$1 million for savings of \$10 million, earn \$2 million for savings of \$20 million, and so on. Any incentive otherwise due to the Company would be forfeited if in-service date targets are not met.

79. The Stipulating Parties also provide certain updates to their proposed PIM structures in light of discussions by the Commissioners at Hearing and at the Commissioners' Weekly Meeting on November 24, 2022. In their SOPs, the Stipulating Parties suggest that the Stipulation PIM could be modified such that any cost overruns or savings beyond a 10 percent buffer in the cost categories over which the Company asserts it has no control (inclusive of risk reserve) could be shared on a 50/50 basis between the Company and ratepayers. The Stipulating Parties also encourage the Commission to consider the high cost to ratepayers if Segment 2 (the only segment the Stipulating Parties suggest the Commission grant a CPCN for) is not completed by 2025 (which could result in the loss of federal tax credits to interconnecting wind and solar projects) and suggest that the Commission require the Company to forfeit the return of the cost of Segment 2 in that case.¹¹²

80. The Commission has previously instituted PIMs as part of approval of various utility programs and generation projects. We believe that in certain instances, performance-based mechanisms can be important tools to incentivize utility action to reduce greenhouse gases and ensure timely and cost-efficient completion of generation and transmission building projects.

¹¹² UCA SOP, at pp. 22-24; CEC and Climax SOP, at pp.18-20.

81. In identifying an acceptable PIM structure, we find it appropriate to articulate and adopt the following principles of a desirable PIM for the Pathway Project, which derive largely from testimony by Staff and Public Service (PIM Principles):¹¹³

- a. The PIM should have a clearly and unambiguously defined penalty and incentive structure;
- b. The PIM should be clearly and unambiguously focused on one or a small number of objectives that are not already the subject of an alternate PIM or pre-existing utility incentives;
- c. The PIM should create the ability for all parties to clearly and unambiguously identify success or failure on the basis of a pre-defined baseline and pre-defined performance metrics;
- d. The utility subject to the PIM should have control over factors determining its success or failure;
- e. The PIM should establish penalties or incentives that scale symmetrically with the degree of success or failure in achieving the pre-defined metrics, but should be neither excessively punitive nor lucrative and must be in conformance with existing law;
- f. The PIM should establish penalties or incentives that are of a large enough magnitude to supersede other factors (*e.g.*, return on equity) that influence Company behavior;
- g. The PIM should avoid gaming and unintended consequences (to the degree these can be anticipated); and
- h. The PIM should complement and inform utility performance evaluation.

82. We emphasize the unique nature of the Pathway Project, and in particular the cost and timing considerations present in this proceeding, as well as the importance of cost expectations in the need finding. While the Company is expected to maintain strict cost control and efficient project management in all instances, we find that implementing a PIM is an appropriate incentive to ensure those goals are met for the Pathway Project. The Commission anticipates a PIM to act in conjunction with a forthcoming prudency review under

¹¹³ Hearing Exhibit 1500, Staff Witness Gene L. Camp Answer Testimony and Attachments, Rev. 2, at pp. 39-40; Hearing Exhibit 112, Rebuttal Testimony and Attachments of Brooke A. Trammell, at pp. 45-46.

§ 40-5-101(4)(a), C.R.S., to maintain appropriate cost control and timing protections. Implementing a PIM for the Pathway Project provides the Commission with an additional tool to align utility incentives with the interests of ratepayers at the onset of Project development. In light of the PIM Principles and interests outlined above, the Commission finds it appropriate to order a PIM here to encourage the Company to maintain adequate cost control and meet its' intended in-service dates. The circumstances of this Project require a PIM structure that appropriately balances risks between ratepayers and shareholders.

83. The Commission is tasked with protecting the public interest regarding utility rates and practices.¹¹⁴ Consequently, the Commission is particularly concerned with adopting a PIM that ensures sufficient discipline by the Company in keeping costs and timing appropriate. In applying the PIM Principles stated above to the Settlement Agreement PIM, and in reviewing the record before us, we find that the Settlement Agreement PIM largely meets those principles except the principle that penalties and incentives be of sufficient magnitude to supersede other factors that could influence Company behavior. Therefore, the Commission adopts the Settlement Agreement PIM in form, with certain modifications to magnitude and applicability (described below), to ensure the PIM Principles and the Commission's duty to protect ratepayers and ensure the cost expectations around the need finding are met, while appropriately balancing risk between ratepayers and shareholders of the Company.

84. Considering the PIM recommended by the Stipulating Parties, we find that it is inconsistent with the principles that a utility should have control over factors determining its

¹¹⁴ The PUC has a general responsibility to protect the public interest regarding utility rates and practices. See § 40-3-102, C.R.S.; *Montrose v. Pub. Utilities Com.*, 629 P.2d 619, 624 (Colo. 1981).

success or failure and that a generally symmetric scale is appropriate. The Stipulation PIM would place the full burden of any cost overrun on the Company, even for those cost categories it asserts it has no control over. The Stipulation PIM is also asymmetric, excessively punitive, and the proposed hard cost cap may prevent the future recovery of prudently incurred costs by the Company.

85. We retain the key characteristics of the Settlement Agreement PIM including, largely symmetrical penalties and bonuses; a 5 percent budget “dead band” inside of which no penalty or bonus will apply; penalties or bonuses that scale in proportion to the degree of departure from the estimated budget; and, aggregation of costs into in-service years. We also find it appropriate to incorporate the concept existing in both the Settlement and Stipulation PIMs that there should be separate incentive components focused on cost control and timely segment completion. Given the time pressures associated with federal tax credits, timeliness is an essential component of successful completion and should function independently from the budgetary component.

a. Cost Control PIM

86. We first address the PIM components focused specifically on cost control. As Public Service notes, no party contests its cost estimates.¹¹⁵ We therefore largely adopt those cost estimates, inclusive of the Risk Register, as the baseline cost estimate for the PIM.¹¹⁶ The one exception we make is to exclude the numerous line items in the Risk Register, with an aggregate multi-million dollar value, identified as “Unknown risks.”¹¹⁷ Although the Company ascribes

¹¹⁵ Public Service Joint SOP, at p. 4.

¹¹⁶ The use of the cost estimates put forth by the Company as a baseline for the PIM, as proposed by the Settlement Agreement and adopted here, is indicative of the reasonableness of the formulation of the estimate and has no import with regard to any future prudence review. *See also Section II.C.2.e.*

¹¹⁷ Hearing Exhibit 115, Attachment BJR-14HC.

100 percent probability of occurrence to these risks, it makes no attempt to describe what these risks might be and presents no evidence in support of either the dollar value associated with each such item or why it is certain to occur. Without such support, the Commission declines to incorporate these items into the cost estimate baseline against which Company performance will be evaluated.

87. In its rebuttal testimony, the Company distinguishes between cost categories that are within its control and those that it asserts are outside its control. It makes this distinction to separate costs that it believes should be subject to a PIM from those it believes should be excluded. Specifically, the Company asserts that costs related to: 1) Project design and scope; 2) the labor hours needed to construct it; 3) the quantity of materials (e.g., conductors, steel for towers, concrete); and 4) scheduling and permitting (the Full-Control Categories) are all within its control and should be subject to a PIM. Conversely, the Company asserts it has no control over: 1) commodity pricing; 2) the cost of permits and land acquisition; 3) labor costs; or 4) delays imposed by regulators or other third parties, including environmental costs, and so these costs should not be subject to a PIM (the Limited-Control Categories).¹¹⁸

88. We agree in principle with the Settlement Agreement PIM that the Company is in control of certain costs to a greater degree than others. As we note above, the utility should have control over factors determining its success or failure when developing a successful PIM. As such, we find it appropriate to adopt a two-part cost control PIM reflecting the differing degrees of control the Company has over the Full- and Limited-Control cost categories.

¹¹⁸ Settlement Agreement, at ¶ 8.

89. There is one category of potentially significant cost that is clearly beyond company control, and that is the cost of environmental compliance, particularly should the Lesser Prairie Chicken be listed by the U.S. Fish and Wildlife Service (USFWS) as an endangered species. In rebuttal testimony, Company witness Carly R. Rowe explained that the USFWS is currently contemplating listing the Lesser Prairie Chicken as an endangered species, and that a final rule on this matter is expected in the second quarter of this year. Ms. Rowe stated that if the USFWS does list the Lesser Prairie Chicken as endangered, this would impact Segments 3, 4, and the MVL Extension. For these segments, habitat conservation costs could be as high as \$3.5 million per line mile, and could increase total costs for these segments by up to \$180 million.¹¹⁹ We agree with the Company that it would be unreasonable for the Commission to penalize it if its siting costs are increased due to the listing of the Lesser Prairie Chicken as an endangered species, and we are mindful of WRA's concern that including environmental compliance costs in the PIM structure could create incentives for the Company to "cut corners" when it comes to environmental compliance.¹²⁰ Accordingly, environmental compliance costs shall be excluded from both the baseline and actual incurred costs in the calculation of the Limited-Control component of the PIM.

90. We acknowledge that the Company has substantially less influence over the Limited-Control Categories, but we do not agree that its influence is completely nonexistent. For example, it is the Company that will negotiate with landowners over the cost of land and easements, will determine the precise route of each segment, and will sign contracts for the delivery of materials with specific suppliers. While the Company has no control over global

¹¹⁹ Hearing Exhibit 117, Rebuttal Testimony and Attachments of Carly R. Rowe, at pp. 17-20.

¹²⁰ WRA SOP, at pp. 14-15.

commodity markets, it does exert a degree of control in each of these areas via the decisions it makes and in its negotiation and contracting strategy. We expect the Company to exercise its best judgment in decision-making and in negotiating to the best advantage of ratepayers. Accordingly, we adopt certain PIM provisions specific to Limited-Control Categories, further described below.

91. The Settlement Agreement PIM, in a worst-case scenario, would require the Company to bear less than 9 percent of the added cost, equating to less than 18 percent of the additional return ratepayers would pay to the Company on the cost overrun. We find the PIM Principle, that the PIM should establish penalties or incentives that are of a large enough magnitude to supersede other factors (*e.g.*, ROE) that influence Company behavior, to be of key importance to the adopted PIM design. We find that the Settlement Agreement PIM can be improved, with respect to basis point adjustments as described below, to better influence Company behavior.

92. We now turn to describing further the Settlement Agreement PIM as adopted and modified by this Decision. The PIM adopted here starts with the Company cost estimate, as adjusted in Decision paragraph 86, as the PIM baseline. The Pathway Project PIM will evaluate costs on a year-by-year basis based on Segment in-service dates as proposed in the Settlement Agreement.¹²¹ We maintain a 5 percent cost estimate “dead band” inside of which no penalty or bonus will apply as proposed in the Settlement Agreement.¹²² From there, the penalties or bonuses scale in proportion to the degree of departure from the cost estimate.

93. The PIM proposed by the Settling Parties (as modified in the Company’s SOP) would expose the Company to a penalty that in the worst case would amount to a net present

¹²¹ Settlement Agreement, at p. 11.

¹²² Settlement Agreement, at p. 11.

value of less than 9 percent of the cost overrun (relative to included cost categories only), and would impose a small penalty, if any, for late completion of segments. The Stipulating Parties, on the other hand, recommend a cost control PIM that would hold the Company responsible for 100 percent of any cost overruns (regardless of cost category) while allowing it to share, at best, 10 percent of any savings. We find that given the significant and real uncertainties the Company faces in completing a project of this magnitude and duration, the PIM proposed by the Stipulating Parties is excessively punitive, but the Settlement PIM needs a stronger incentive to function properly. Therefore, for the Full-Control Categories, outside of a 95 percent to 105 percent dead band relative to the Company's cost estimate (inclusive of the risk reserve adjusted as discussed above), 25, 50, and 75 basis point adjustments will apply to the ROE of the entire investment for the line segment and substation groupings planned for completion in 2025, 2026 and 2027.

94. Also, for the Full-Control Categories, the 25-point ROE adjustment will apply to cost differences (positive or negative) greater than 5 percent and up to 10 percent relative to the baseline budget. The 50-point ROE adjustment will apply to cost differences greater than 10 percent and up to 15 percent relative to the baseline budget. Cost differences greater than 15 percent will be subject to an ROE adjustment of 75 basis points.¹²³

95. As discussed above, with regard to cost variances in the Limited-Control cost categories, we find it appropriate for the Company to shoulder a smaller fraction of the risk that costs in these categories could be higher than it has estimated, and also that it should be able to

¹²³ This structure will result in the Company being exposed to a bonus or penalty amounting to approximately 10.8 percent, 15.0 percent, and 22.5 percent of the cost overrun or cost savings for the three tiers of budget variance discussed above.

retain a similar fraction of the benefit, should its actual costs in these categories come in below its projected costs.

96. Accordingly, we will adopt the following adjustments on the Limited-Control cost categories: Outside of a 95 percent to 105 percent dead band relative to the Company's proposed cost estimate (inclusive of the risk reserve adjusted as discussed above and excluding Environmental Compliance costs), 50, 100, and 150 basis point adjustments will apply to the ROE of **only the cost overrun or cost savings** (again, excluding environmental compliance costs) for the line segment and substation groupings planned for completion in 2025, 2026 and 2027. The 50-point ROE adjustment will apply to cost differences (positive or negative) greater than 5 percent and up to 10 percent relative to the baseline budget. The 100-point ROE adjustment will apply to cost differences greater than 10 percent and up to 15 percent relative to the baseline budget. Cost differences greater than 15 percent will be subject to an ROE adjustment of 150 basis points.¹²⁴

97. For both the Limited-Control cost categories, and the Full-Control cost categories of the Pathway Project PIM, annual penalties or bonuses shall apply for ten years, shall be amortized over ten years, and shall be collected via the TCA in the manner provided for in paragraph 12 of the Settlement Agreement.

98. For both the Limited-Control cost categories and the Full-Control cost categories of the Pathway Project PIM, the Company may file appropriate pleadings to seek relief from application of the PIM, if events beyond its control occur. If the Company seeks a variance from the Pathway Project PIM components set forth in this Decision, it should describe how events

¹²⁴ The above structure will result in the Company being exposed to a bonus or penalty amounting to approximately 2 percent, 4 percent, and 6 percent of the cost overrun or cost savings for the three tiers of budget variance.

outside its control made it impossible to build some or all portions of the Pathway Project within the cost estimate presented in this proceeding.

99. In addition, should the evaluation of carbon core conductors (that we order below in Section I.C.7.b) indicate that the initial cost of carbon core conductors is higher than the conventional ACSR conductor but that it is cost-effective over its lifetime due to, for example, reduced line losses or other benefits, we encourage the Company to submit appropriate filings regarding any requested changes to application of the PIM or relevant baselines.

b. Timing Provisions

100. Our goal in establishing a Power Pathway PIM is to better align the interests of shareholders with those of ratepayers by incentivizing both on-time completion and cost control. As discussed above, we find it necessary and appropriate to implement an incentive component designed to motivate the timely completion of all Power Pathway segments and substations, and particularly for Segments 2 and 3 and the Pawnee, Canal Crossing, Goose Creek and May Valley substations at which they terminate. Segments 2 and 3 and their associated substations are of particular concern given the Company's intent to complete them in September 2025, thereby allowing interconnecting wind generating resources to be eligible for the federal PTC, which expires at the end of that year, and allowing interconnecting solar generators to be eligible for the federal ITC, which declines from 26 percent to 10 percent at the end of 2025.

101. The proposals for timing PIMs from the Settling Parties and the Stipulating Parties are at opposite extremes. The Settling Parties suggest that an additional ROE penalty of 50 basis points would apply if the Company does not deliver a segment in-service in their target year and if actual costs exceeded 105 percent of the Company estimate of controlled costs. If segments were placed in service late and costs were below 95 percent of that estimate, the

Company would be ineligible to claim any savings, but there would be no further penalty. A project falling within the budgetary PIM dead-band would not carry a penalty related to timeliness. The Partial Stipulation specifies that any shared savings otherwise due to the Company would be forfeited if the relevant segment is not placed into service as the Company projects. Regarding Segment 2 specifically (which is the only segment the Stipulating Parties believe should be granted an unconditional CPCN), the Stipulating Parties suggest in their SOPs that the Commission consider disallowing the full investment in that segment and its associated substations if they are not placed into service by their target date.

102. In our judgement, a potential penalty or bonus of \$10 million, for late or early completion of Segments 2 and 3 will provide a sufficient incentive to align those interests. Because the timing of the completion of the remaining segments is not critical for federal tax credit eligibility, we find that a smaller incentive, but one proportional to the magnitude invested in each segment grouping is appropriate. The \$10 million maximum penalty or bonus we adopt for Segments 2 and 3 amounts to 1.43 percent of the Company's aggregate \$699.3 million cost estimate for those segments (inclusive of the risk register). We will adopt one-quarter of this percentage, or 0.36 percent as the maximum penalty or bonus that will apply to the remaining segment groupings. These penalties or bonuses will be assessed or granted on a dollar per day basis dependent upon when each segment grouping is placed into service, as discussed further below.

103. The record demonstrates that the Company plans to complete Segments 2 and 3 and their associated substations by September 2, 2025, Segment 1 and the expansion of the Ft. Saint Vrain substation is projected to be complete by May 14, 2026, and Segments 4 and 5

and associated substations are projected to go into service by May 13, 2027.¹²⁵ Putting Segments 2 and 3 into service on or near September 2, 2025 should enable substantial capacities of wind and solar resources selected through the ongoing 2021 ERP and CEP to interconnect and demonstrate commercial operation before the end of that year, qualifying them for receipt of the federal tax credits. We therefore find it appropriate to center our timing PIM on that date. We also find it appropriate to establish a “timing dead-band” of 15 days on either side of that date during which no bonus or penalty will apply. Because it will become increasingly difficult for developers to interconnect and demonstrate commercial operation as the end of 2025 approaches, the daily penalty for late completion will escalate until December 20, 2025, after which it will cease.

104. Because the consequences of late completion for Segments 2 and 3 scale dramatically as the end of 2025 approaches, we find it appropriate that the magnitude of the daily penalty should increase linearly following the end of the timing dead-band until the end of the year—a period of 96 days. Therefore, the penalty for late completion will commence on September 17, 2025 at a value of \$50,000 and increase by \$1,175.81 each day until December 20, 2025 on which date the daily fee will be \$160,526.32. If this complete segment group is not completed before December 21, 2025, the total cumulative penalty assessed on the Company will be \$10 million. If these segments and substations are completed prior to the commencement of the timing dead band on August 18, 2025, the Company will be awarded an incentive of \$50,000 for each day in advance of that date up to, but no earlier than January 30, 2025 (with no daily increase). If the Company completes this segment group on or before January 30, 2025, it will be eligible for a total bonus of \$10 million.

¹²⁵ Hearing Exhibit 105, Attachment BJR-5_ Power Pathway Summary Schedule Feb 25 2021.

105. For the remaining segments, we adopt a flat, symmetrical dollar-per-day incentive structure applied over a four-month period prior to and following a timing dead-band. The Company projects that Segment 1 will be completed by May 14, 2026 and that Segments 4 and 5 are to be completed by May 13, 2027.¹²⁶ Because these segments are to be built further into the future, we will expand the timing dead-band to 30 days before and after the projected completion dates for each grouping. As noted above, the penalty or incentive for each grouping is capped at 0.36 percent of the total projected budget. For Segment 1 this total is projected at \$243,378,862, so the maximum penalty or bonus shall be \$897,764, or approximately \$7,481 per day. This daily amount shall be a bonus for early completion between December 15, 2025 and April 14, 2026, and a penalty for late completion between June 13, 2026 and October 11, 2026. The total projected expenditure for Segments 4 and 5 is \$746,818,721, so the maximum penalty or bonus shall be \$2,688,547, or approximately \$22,405 per day. This daily amount shall be a bonus for early completion between December 14, 2026 and April 13, 2027, and a penalty for late completion between June 12, 2027 and October 10, 2027.

106. The Timing PIM annual penalties or bonuses shall apply for ten years, shall be amortized over ten years, and shall be collected through the TCA in the manner provided for in the Settlement Agreement in paragraph 12. As with the cost-control PIM discussed earlier, the Company may seek relief from the Commission if extraordinary events beyond its control make it impossible to complete one or more segments by the dates specified in its Application and supporting Testimony. If the Company seeks a variance from the PIM components set forth in this Decision, it should describe how extraordinary events outside its control made it impossible

¹²⁶ Hearing Exhibit 105, Attachment BJR-5_Power Pathway Summary Schedule.

to build some or all portions of the Pathway Project within the timeframe presented in this proceeding.

107. Finally, if the expiration date for the PTC or the date on which the ITC drops from 26 percent to 10 percent are extended by the federal government, the critical dates for completion of segment groupings will change. In this case, the Commission notes that the Company may similarly file a motion in this Proceeding to reconsider the timing PIM mechanism described above.

108. The Settlement Agreement PIM is therefore adopted as modified consistent with the discussion above. The Commission declines to adopt the PIM methodology set forth by the Stipulating Parties.

5. San Luis Valley Transmission M-Docket

109. The Pathway Project does not include any proposed transmission expansion to ERZ 4 in the San Luis Valley which contains significant potential for solar development.¹²⁷ The Settlement Agreement recommends the Commission open a miscellaneous proceeding to further solicit comments and study the potential value of transmission solutions in and out of the San Luis Valley in southern Colorado.¹²⁸

110. At hearing, Staff witness Mr. Gene Camp noted that exploration of transmission in the area is “probably well worth the time” to study. COSSA/SEIA further note in their SOP that the San Luis Valley is one of the “best solar potential” areas in Colorado and the potential for solar growth in the area “will need to be exploited to fulfill Colorado’s renewable energy

¹²⁷ HE 1600, Answer Testimony of Mike Kruger on behalf of COSSA/SEIA, p. 8.

¹²⁸ Settlement Agreement, at ¶ 29.

goals.”¹²⁹ Notably, no party expressed opposition to further study of transmission solutions for the area.

111. We agree that it is worthwhile to explore this issue. As proposed by paragraph 29 of the Settlement Agreement, the Commission will open a miscellaneous proceeding to solicit comments and consider the benefit of transmission solutions for the San Luis Valley no later than six months after the effective date of this Decision.

6. Owner’s Engineer

112. At hearing, Chairman Blank explored the possibility of engaging a third-party independent expert to provide oversight of the Pathway Project management and procurement practices on behalf of ratepayers.¹³⁰ Chairman Blank notes that utilization of an Owner’s Engineer with “real transmission equipment procurement and construction management expertise” to monitor investment decisions and spending, on behalf of customers, would likely be beneficial.

113. The Company and Staff address this idea through their Joint SOP.¹³¹ Staff and the Company suggest the Commission order the Company to engage a third party with appropriate expertise for the Pathway Project and agree that the scope, parameters, and term associated with engagement of a third-party would be collaboratively established with input from both Staff and Public Service. This third party would be engaged by the Company to monitor the Project as directed by Staff on behalf of the Commission. Staff and Public Service commit to updating the Commission within 90 days of a final written decision in this Proceeding. The Company notes in the Joint SOP that it did not contemplate the costs associated with an Owner’s Engineer when creating

¹²⁹ Statement of Position of the Colorado Solar and Storage Association and the Solar Energy Industries Association (COSSA/SEIA SOP), at p. 7.

¹³⁰ Hr. Tr. 11/15/2021 at 183:2-20 (Trammell cross by Chair Blank); Hr. Tr. 11/16/2021 at 67:11-21 (Camp cross by Chair Blank).

¹³¹ Public Service Joint SOP, at pp. 27-28.

the cost estimate of the Pathway Project and thus could not be applied against an approved PIM. They state costs would be recoverable through the TCA. In COSSA/SEIA's SOP, they also note that the Commission should take steps to control costs of the Pathway Project as they find appropriate and that may include the use of an outside project engineer.¹³²

114. The Commission finds the utilization of a third-party independent Owner's Engineer to be in the best interest of ratepayers and an important step to control costs of a major project such as the Power Pathway. Consequently, we adopt the proposal set forth by the Staff and the Company in the Joint SOP, with certain additional parameters.

115. In addition to the terms outlined in the Joint SOP, the Commission expects the Owner's Engineer to be hired and in place for oversight of the Pathway Project no later than December 31, 2022. Further, the Commission expects, at minimum, the Owner's Engineer to provide periodic reports to Staff and Staff to have management function over the Owner's Engineer's oversight of the Power Pathways Project. The Commission expects the Owner's Engineer to contract directly with Public Service, but for Staff to have management function over the Owner's Engineer role. Finally, we expect that the Owner's Engineer will be highly involved in the report on cost-effectiveness of ATTs required by Section I.C.7.b. Staff's oversight function should include notification to the Commission of any significant changes to project plans, budget extensions, timely segment completion, and observations of concerning project management reported.

116. The Commission directs the Company and Staff to file within this Proceeding, within 90 days of the issuance of this Decision, an update which describes the agreed-upon expected scope, estimated cost, and timeline for hiring a third-party for Project oversight. We direct the Company to file notice regarding the hiring of the Owner's Engineer, within this Proceeding, no later than December 31, 2022. The Commission also anticipates the Company will file any advice letter filing

¹³² COSSA/SEIA SOP, at p. 6.

necessary to amend the TCA tariff to allow for recovery of the expenses related to the procurement of an Owner's Engineer for the Pathway Project.

7. Engineering Considerations

a. Undergrounding

117. Company witness Mr. Craig states that the Project as designed is sufficient to meet the 150 mG reasonableness threshold set forth in Commission Rule 3102(d), 4 CCR 723-3 of the Commission's Rules Regulating Electric Utilities and that undergrounding would entail significantly higher costs and environmental and technological impacts associated with burying the transmission lines.¹³³ He also states that underground lines present challenges during outages and faults in underground lines are typically more difficult to locate and repair than in overhead lines, leading to potentially significantly longer power outages than with overhead power lines.¹³⁴ The Settlement Agreement recommends the Commission adopt the certain language regarding the cost of undergrounding transmission lines for the Pathway Project.¹³⁵

118. The Commission determines that Public Service's preliminary analysis establishes it would be prohibitively expensive to underground substantial portions of the Pathway Project, as undergrounding an AC transmission line of this magnitude would be prohibitively expensive compared to the cost of the Company's proposed above-ground design. In light of this differential in costs, placing all or substantial portions of the transmission lines underground would make the Project substantially more expensive and is not in the best interest of customers.

¹³³ HE 106, Direct Testimony of Bryon R. Craig, at 68:5-88:22.

¹³⁴ *Id.*

¹³⁵ Settlement Agreement, at ¶ 30.

b. Advanced Transmission Technologies

119. Paragraph 16 of the Settlement Agreement states, in relevant part:

Settling Parties agree that Public Service will present as part of any future transmission CPCN application(s) associated with the 2021 ERP & CEP follow-on transmission investment, a detailed explanation of ATT¹³⁶ considered for any project for which a CPCN is sought. In addition, the Settling Parties agree that the Commission should encourage the Company to engage with interested stakeholders regarding ATT through existing stakeholder processes, including the Colorado Coordinated Planning Group (“CCPG”), and report back to the Commission through the existing Rule 3627 Transmission Planning process.

120. The Commission has previously expressed its interest in the application of ATT in a Commissioner Information Meeting held on October 22, 2020, where the potential for several types of ATT were presented and discussed, and in Decision No. R21-0073 in Proceeding No. 20M-0008E issued February 11, 2021, in which the Commission required that Public Service, BHE, and Tri-State document their evaluation of ATT in all future transmission plans.¹³⁷ The Commission reiterates its ongoing interest in the application of ATT in Colorado wherever they can be cost-effectively deployed while maintaining or improving service reliability, and particularly where they can aid in the integration of renewable resources.

121. In light of the conflicting record in this proceeding on the costs and feasibility of utilizing ATT technology, the Commission declines to make any CPCN for the Power Pathway Project contingent upon technology choice or study. The Commission finds the record before us

¹³⁶ Advanced transmission technologies (ATTs) comprise both advanced carbon-core conductors, high voltage DC transmission technologies, transmission-connected battery storage, and grid-enhancing technologies (GETs). GETs, in turn, include dynamic line rating, which enables utilities to vary transmission line rating depending upon real-time ambient conditions; power flow control devices, which actively control power flow on transmission lines; and topology optimization, which uses software to automate transmission line switching to optimize network power flow using real-time information about grid conditions.

¹³⁷ Decision No. R21-0073, ¶¶ 42 – 45.

deficient to determine what would be the economic consequences of utilizing carbon core conductors for this Project. Mr. Craig's rebuttal testimony identified errors undermining Mr. Miloshevich's analysis of capital and operating cost savings achievable by carbon-core conductors. Likewise, Mr. Miloshevich identified errors in Mr. Craig's analysis that bring the validity of his findings into question. The result is that the record on this very consequential decision regarding which conductor type would be best for the Power Pathway remains unclear. While we acknowledge that use of carbon core conductors could be very valuable for interconnecting additional renewable resources in the future, for minimizing curtailment, for increasing import/export capacity and to serve the Company's growing electrification load, it is also clear that requiring the Company to delay procurement of conductor pending resolution of further study could very well push completion of Project Segments 2 and 3 beyond the end of 2025, at substantial cost impacts for ratepayers.

122. In the instant proceeding, we agree with the parties that contend that no ATT can obviate the need for the substantial interconnection capacity in the solar- and wind-resource-rich areas of the state that the Pathway Project will provide access to. However, there remains the potential that some forms of ATT, namely carbon-core conductors, could possibly allow the Power Pathway Project to perform this function more efficiently, and potentially at lower cost than the conventional ACSR conductor favored by Public Service.

123. Accordingly, we decline to require Public Service to further study the use of carbon-core conductor for Pathway Project Segments 2 and 3. However, for the remainder of the Project, and for the MVL Extension, if it is ultimately granted an unconditional CPCN, we will require Public Service to conduct a formal cost-effectiveness analysis of carbon-core conductors. We order further study of the cost-effectiveness of carbon-core conductors to facilitate the

Company's decision making in planning the Pathway Project and to ensure a more complete record to aid our understanding of the relative costs of these technologies and the potential benefits to ratepayers.

124. We order the Company to solicit formal bids from carbon-core conductor manufacturers as required to complete this analysis. Within six months following publication of this Decision, the Company shall also complete and submit an analysis of the cost-effectiveness of carbon-core conductors. The analysis scope shall include, at minimum, the cost of conductors, installation labor and towers, and varying tower height and spacing as warranted by the properties of each conductor.

125. Public Service shall analyze two scenarios: one in which the capacities of Project components are unchanged from the current Pathway Project design, and one in which these components are upgraded as necessary so that the increased capacity of carbon-core conductors could be fully utilized. Although this latter scenario may imply additional upfront capital cost, the cost-effectiveness analysis shall assume the same load level as used in the first scenario. The analysis shall set forth costs and savings attributable to the use of carbon-core conductors over the expected life of the Project. Documentation of the analysis, including support for all assumptions, shall be filed as a report in this Proceeding.

126. We also direct the Company to provide the Owner's Engineer discussed in Section I.C.6 any information required for the Owner's Engineer to review and supply a report to the Commission. This review and report are to be considered a part of the scope of work of the Owner's Engineer.

127. If as a result of the analysis described above, the Company finds that carbon-core conductor would be advantageous for one or more segments of the Pathway Project, it may file a

motion to revise any relevant components of the cost-control and timing PIMs established above under § 40-6-112, C.R.S.

128. Paragraph 16 of the Settlement Agreement specifies in part that “Public Service will present as part of any future transmission CPCN application(s) associated with the 2021 ERP and CEP follow-on transmission investment, a detailed explanation of ATT considered for any project for which a CPCN is sought.” In response, Mr. Miloshevich proposes that such a detailed explanation be required for any future CPCN, regardless of its connection to the 2021 ERP and CEP, and that the explanation include the Company’s rationale in each case in which a conventional solution is selected rather than an ATT. Mr. Miloshevich also recommends that the Company be required to conduct a formal evaluation of cost-effective opportunities for ATT application on its existing transmission system.

129. We reiterate our ongoing interest in the cost-effective application of ATT. We find that it is a fundamental responsibility of all jurisdictional utilities in the state to stay abreast of technology developments (in transmission and all other areas of utility operations), and to identify and deploy new technologies wherever they provide ratepayer benefit. Failing to do so could risk cost disallowance, where a party can demonstrate that a utility’s selection of a conventional technology solution resulted in elevated costs when the utility knew, or should have known, that an alternative technology (in this case ATT) could have provided equivalent or better service at lower cost.

130. However, we find that it would not be appropriate to require in this Decision the comprehensive, system-wide assessment of ATT opportunities that Mr. Miloshevich seeks. We do however, support and adopt paragraph 16 of the Settlement Agreement. While we decline to require such an assessment here, we note that the Commission will be evaluating the utilities’

consideration of ATT in the current joint Rule 3627 transmission planning Proceeding (22M-0016E) and will consider in that Proceeding whether new rules may be needed to spur more application of ATT. Such a rulemaking could examine whether independent analysis of ATT opportunities for the existing transmission system is warranted.

131. Mr. Miloshevich recommends the Commission adopt a PIM (using a “shared savings” approach) to advance the deployment of ATT.¹³⁸ We find that it would be inappropriate to order use of such a PIM within this Proceeding for this Project or for future transmission projects. Utilization of each ATT technology type may warrant a different PIM design and the variety of potential technologies available could preclude the use of a generalized PIM.

132. Within the instant Proceeding alone, we have found it necessary to adopt separate PIM components focusing on cost-control and timing, and each of these including multiple sub-components. While the shared-savings approach Mr. Miloshevich recommends could be warranted for several ATT applications, we are wary of pre-specifying a PIM structure for unknown future CPCN applications. Instead, we find that potential use of PIMs to incentivize adoption of ATT should be considered in individual CPCN applications as appropriate in the future and decline to order a PIM in this proceeding to advance deployment of ATT as proposed by Mr. Miloshevich.

8. Ancillary Issues

a. Rate Impact Cap

133. Staff witness Gene Camp provided an interpretation of the applicability of the rate impact cap in § 40-2-125.5(5), C.R.S., to the Pathway Project in his answer testimony.¹³⁹ Certain

¹³⁸ Miloshevich SOP, p. 7; *See also* HE 1700, Answer Testimony of Larry Miloshevich, at 62:10.

¹³⁹ Exhibit 1500, Staff Witness Gene L. Camp Answer Testimony, Rev. 2, at 14-15.

parties, including Public Service, filed a Joint Brief which addressed and generally disagreed with Staff's interpretation of the applicability of the rate impact cap to the costs related to the Pathway Project.¹⁴⁰ The Settlement Agreement proposes the Commission defer deciding any issues related to interpretation of § 40-2-125.5(5), C.R.S., and the scope of the "clean energy plan revenue rider" to Proceeding No. 21A-0141E. The Stipulation does not address this issue. We agree with the Settling Parties that issues regarding interpretation of §40-2-125.5(5), C.R.S., if any, are more appropriately considered within the 2021 ERP and CEP Proceeding and are not applicable to the instant Proceeding.

(1) CORE's Request for Directed Negotiations

134. In its SOP, CORE requests the Commission condition any approval of the Pathway Project on the requirement that the Company "engage in good-faith negotiations with interested utilities that serve Colorado electric customers and are willing and able to invest in joint ownership of the Power Pathway."¹⁴¹ CORE asserts the Commission should consider including parameters "such as a timeline for study and negotiations, a notification and/or qualification requirement for interested utilities, appointment of Commission Staff or another third-party neutral monitor, and future reporting requirements for the Company and interested utilities" when approving a CPCN for the Pathway Project.¹⁴²

135. The Settlement Agreement notes that the Company does not anticipate a joint ownership or partnership arrangement will materialize for the Pathway Project, but that if one

¹⁴⁰ See Hg Ex. 111, Attachment AKJ-2 Joint Brief Re CEPR Public Service, CEO, CIEA, COSSA/SEIA, Interwest, the RMELC/CBCTC, and WRA (collectively, the "Joint Parties").

¹⁴¹ CORE SOP, at p. 2.

¹⁴² CORE SOP, at p. 8.

were to materialize, the Settling Parties agree that it is appropriate for the Company to make the appropriate filing with the Commission that would allow for Commission review and approval.¹⁴³

136. The Commission declines to predicate approval of the Pathway Project as CORE requests. Requiring the Company to engage in good-faith negotiations prior to issuing a CPCN for this Project would needlessly delay and jeopardize the Pathway Project. As such, we adopt paragraph 30 of the Settlement Agreement.

(2) Competitive Solicitation for Building the Pathway Project

137. The Stipulating parties urge the Commission to consider conditioning any CPCN granted for segments with an in-service date of 2026 and beyond by requiring cost-effective regional transmission planning and competitive bidding.¹⁴⁴ According to the Stipulating parties, coordinated planning and competitive bidding for transmission will “right-size” the system needed, spread costs more broadly, and put downward competitive pressure on the transmission costs needed to meet the State’s clean energy goals.¹⁴⁵

138. In the Joint SOP, the parties refute the Partial Stipulation’s approach to competitive solicitation.¹⁴⁶ They note that the Partial Stipulation “provides no basis in Colorado law for the Commission to impose processes” on coordinated transmission planning and competitive bidding processes for transmission facilities. *Id.* at p. 23. They contend that the Partial Stipulation approach ignores that this Project was appropriately planned in accordance with Public Service’s FERC-approved Joint Open Access Transmission Tariff (as a local project)

¹⁴³ Settlement Agreement, at ¶ 30.

¹⁴⁴ Partial Stipulation, at ¶ 7.

¹⁴⁵ Partial Stipulation, at ¶ 9.

¹⁴⁶ Public Service Joint SOP, at p. 24.

and that planning occurred through both the CCPG process as well as the CCPG 80x30 Task Force.¹⁴⁷

139. The Commission acknowledges the substantial potential benefits that competitive solicitation could bring to transmission project development in the future. However, the Power Pathway Project faces significant time constraints to meet the proposed in-service dates. The Company needs to reduce emissions by 2030 and move quickly to capture currently available federal tax credits. We therefore decline to order the Company to use a competitive procurement or solicitation process for development and construction of the Power Pathway Project. The Commission declines to adopt the conditions regarding competitive solicitation as set forth by the Partial Stipulation.

(3) Reporting Requirements

140. The Settlement Agreement proposes the Company will file several Semi-Annual Progress Reports within this proceeding to detail progress and changes to the Project as it relates to this CPCN.¹⁴⁸ The Settling Parties agree the Company will file information regarding: monthly actual expenses incurred and monthly budgeted expenditures by activity for major expense categories; any modifications, by month, to subsequent forecasted expenditures for the remainder of the Project; a cumulative comparison of actual costs to estimated costs for the Project; an explanation of any material changes to the overall cost estimate for the Project; an explanation of any material changes to the installation schedule for the Project; an explanation of efforts to reduce costs; an overall Project progress exhibit that presents Project schedules and actual Project progress for major milestones including, but not limited to, land use permits from local

¹⁴⁷ *Id.* at 22-24.

¹⁴⁸ Settlement Agreement, at ¶ 25.

government(s), acquisition of property rights, major equipment procurements and purchases, and construction progress, testing, commissioning, and commercial operations; and a narrative statement of the overall status of the Project.

141. The Commission accepts these progress updates as outlined by the Settlement Agreement and expects these semi-annual reports beginning on November 15, 2022, and no later than 120 days thereafter. The Commission also expects that if a CPCN is triggered for the MVL Extension, Public Service will report on these same metrics for the extension, to commence with the first semi-annual report after the MVL Extension CPCN becomes unconditional.

(4) Other Terms

142. Unless specifically addressed and adopted above, the Commission does not adopt the remainder of the terms of the Settlement Agreement, and we do not adopt the terms of the Partial Stipulation. Thus, we grant the Motion to Approve the Settlement Agreement in part, and we deny the Motion for Approval of the Partial Stipulation.

II. ORDER

A. The Commission Orders That:

1. The Motion to Approve the Non-unanimous Comprehensive Settlement Agreement, filed by Public Service Company of Colorado (Public Service), Staff of the Public Utilities Commission the Colorado Energy Office, Interwest Energy Alliance, County of Pueblo, Colorado Independent Energy Association, Colorado Solar and Storage Association, the Solar Energy Industries Association, the Rocky Mountain Environmental Labor Coalition and Colorado Building and Construction Trades Council, AFL-CIO, and Western Resource Advocates on November 9, 2021, is granted in part, consistent with the discussion above.

2. The Joint Motion for Approval of Partial Stipulation, filed on November 9, 2021 by the Office of the Utility Consumer Advocate, the Colorado Energy Consumers Group, and Climax Molybdenum Company, is denied, consistent with the discussion above.

3. The Application for a Certificate of Public Convenience and Necessity for Colorado's Power Pathway 345 kV Transmission Project (Project or Pathway Project) filed by Public Service on March 2, 2021 (Application) is granted in part, consistent with the discussion above.

4. Public Service is granted a Certificate of Public Convenience and Necessity to construct and operate Colorado's Power Pathway 345 kV Transmission Project.

5. The expected maximum magnetic field and noise levels associated with the Pathway Project as set forth in the Application are reasonable.

6. Public Service is granted a Certificate of Public Convenience and Necessity to construct and operate the May Valley-Longhorn Extension (MVL Extension), subject to the condition that the MVL Extension be included in the final resource plan approved in Proceeding No. 21A-0141E.

7. The expected maximum magnetic field and noise levels associated with the MVL Extension as set forth in the Application are reasonable.

8. A Performance Incentive Mechanism conforming with the discussion above is adopted and is applicable to the Project and, in the event the MVL Extension receives an unconditional Certificate of Public Convenience and Necessity, is applicable to the MVL Extension.

9. Public Service shall file any compliance advice letter(s) to implement any tariff changes made necessary by this Decision, including the adoption of the Performance Incentive

Mechanism, within 20 days of the effective date of this Decision, on not less than 15 days' notice.

10. Public Service and Staff of the Commission shall file in this Proceeding, an update regarding the scope of work and approach to retaining an Owners Engineer as further described in the discussion above, within 90 days of the effective date of this Decision.

11. Consistent with the discussion above, Public Service shall file, as compliance filings in this Proceeding, Semi-Annual Progress Reports for the Project and if applicable, for the MVL Extension. The first Semi-Annual Progress Report shall be filed no later than November 15, 2022, and subsequent reports shall be filed no later than 120 days following the due date of the prior report. Semi-Annual Progress Reports shall continue to be filed until six months after all Project facilities, and if applicable, MVL Extension facilities, are placed in service.

12. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

13. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS AND
WEEKLY MEETINGS
February 11, 2022 and February 23, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners

NOTIFICATIONS

Newspaper and Affidavit

Landowner Letters and Responses

Referrals and Responses

Mineral Rights Owners

**NOTICE OF MORGAN COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING TO REVIEW
AMENDING THE MORGAN COUNTY ZONING REGULATIONS**

Notice is hereby given that on Wednesday, September 14, 2022 at 9:00 a.m., or as soon as possible thereafter, a public hearing will be held to consider the following application:

1.) Description of application:

Concerning Public Service Company of Colorado's 1041 Permit Application for a Major Facility of a Public Utility to construct and operate a transmission line and proposed new substation in a portion of Colorado's Power Pathway located in Morgan County.

THE COUNTY WILL CONTINUE TO OFFER THE OPTION TO ATTEND MEETINGS REMOTELY VIA ZOOM. IF YOU HAVE ANY QUESTIONS REGARDING ATTENDING THE MEETING, PLEASE CONTACT THE PLANNING OFFICES AT 970-542-3526.

To participate remotely you may connect via Zoom at:

<https://us02web.zoom.us/j/81103956827>

Or Telephone:

Dial:

US: +1 346 248 7799

Webinar ID: 811 0395 6827

Documents pertaining to the above identified matters are on file in the Planning Administrator's Office, 231 Ensign St., Fort Morgan, Colorado. Documents are also available on the Morgan County Website <https://morgancounty.colorado.gov>

At time of the meeting an opportunity will be given for presentation of evidence in support of or in opposition to the application.

Nicole Hay, Morgan County Planning Administrator

Published: July 23, 2022

NOTICE OF MORGAN COUNTY BOARD OF COUNTY
COMMISSIONERS PUBLIC HEARING TO REVIEW
AMENDING THE MORGAN COUNTY ZONING REGULATIONS

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1.) Description of application:
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Nicole Hay, Morgan County Planning Administrator

Published: July 23, 2022

Published: Fort Morgan Times July 23, 2022-1907623

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Morgan
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Fort Morgan Times*.
2. The *Fort Morgan Times* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Morgan County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Fort Morgan Times* in Morgan County on the following date(s):

Jul 23, 2022



Signature

Subscribed and sworn to me before me this

25th day of July, 2022



Notary Public

(SEAL)

SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025

Account: 1052763
Ad Number: 1907623
Fee: \$40.48



MORGAN COUNTY PLANNING AND BUILDING DEPARTMENT

July 21, 2022

Dear Neighboring Landowners:

The following land use application is scheduled to be heard by the Morgan County Board of Commissioners on Wednesday, September 14, 2022 at 9:00 a.m. to be held in the Assembly Room of the Morgan County Administration Building, 231 Ensign St., (Basement Level) Fort Morgan, Colorado:

Applicant: Public Service of Colorado (PSCo) has submitted 1041 Permit Application for a Major Facility of a Public Utility to construct and operate a transmission line and proposed new substation in a portion of Colorado's Power Pathway located in Morgan County.

Documents pertaining to the above identified matters are on file in the Planning Administrator's Office, 231 Ensign St., Fort Morgan, Colorado. Documents are also available on the Morgan County Website <https://morgancounty.colorado.gov>

If you have any questions pertaining to these applications or if you would like to review the file, either contact us at (970)542-3526 or stop by our office prior to the hearing. If you have any comments or concerns, plan to attend this hearing.

Sincerely,

Nicole Hay
Planning & Zoning Director

COLORADO'S POWER PATHWAY

APPLICATION SUMMARY

Morgan County Site Selection and Construction of Major Facilities of a Public Utility (1041 Permit)

Public Service Company of Colorado, a Colorado corporation doing business as Xcel Energy (Xcel Energy), is proposing to construct, maintain, and operate Colorado's Power Pathway (Pathway) in eastern Colorado. Pathway is a \$1.7 to \$2 billion investment proposed by Xcel Energy to improve the state's electric grid and enable future renewable energy development around the state. Pathway will ensure safe, reliable, and economical electric service to the public, boost the regional economy, and create jobs during its construction.

Pathway will be constructed in five segments, with an optional sixth segment. Portions of Segments 1 and 2 are proposed to be in unincorporated Morgan County. The proposed facilities in Morgan County include 48 miles of new 345-kilovolt (kV) double-circuit electric transmission line and a new electric substation (Canal Crossing Substation).

Xcel Energy has submitted a permit application to Morgan County to locate and construct major facilities of a public utility pursuant to the County's Guidelines and Regulations for Areas and Activities of State Interest (1041 permit) for Pathway.

Location. As shown in the attached overview map, the proposed transmission line route in Morgan County is generally located in the area south of Wiggins and Fort Morgan, oriented in a west to east direction. The proposed route is south of Interstate 76 and crosses Highway 71 south of Brush. The new Canal Crossing Substation is proposed to be located approximately 5 miles south of the existing Pawnee Substation, off of County Road I.

Construction. The new 345-kV double circuit transmission line will be constructed using steel poles. A single pole will be used for most transmission pole locations, although two poles will be required for certain high-loading transmission pole locations such as at angle locations where the line changes direction. The poles will be a brown or rust color and typically 105 to 140 feet tall.

The new Canal Crossing Substation will be constructed on an approximate 80-acre parcel of land owned in fee by Public Service Company of Colorado, located east of the divergence of County Road K and County Road I and approximately 5 miles south of the existing Pawnee Substation. The substation equipment will be enclosed within a security fence that is 10 feet tall.

Routing. The new transmission line and substation required a comprehensive review of criteria such as electric system planning, engineering, environmental and cultural resources, land use, regulatory requirements, land rights, stakeholder input, and public and worker safety. A five-step routing and siting process was used to identify constraints and opportunities between segment endpoints to ultimately identify the preferred route location for the transmission line and the preferred locations for new substation sites. Public outreach efforts were conducted to receive public and stakeholder feedback and input on transmission line route and substation site selection throughout this process. The proposed route is shown on the attached map.

Current and Future Land Use. Pathway will not cause a significant change in land use in the immediate area. Current uses adjacent to Pathway facilities will be able to continue mainly unchanged after construction of this Project, thereby preserving the desirable community and rural patterns that exist. Following construction, agricultural activities along the transmission line route can continue outside of the small area occupied by the transmission poles and the Canal Crossing Substation footprint.

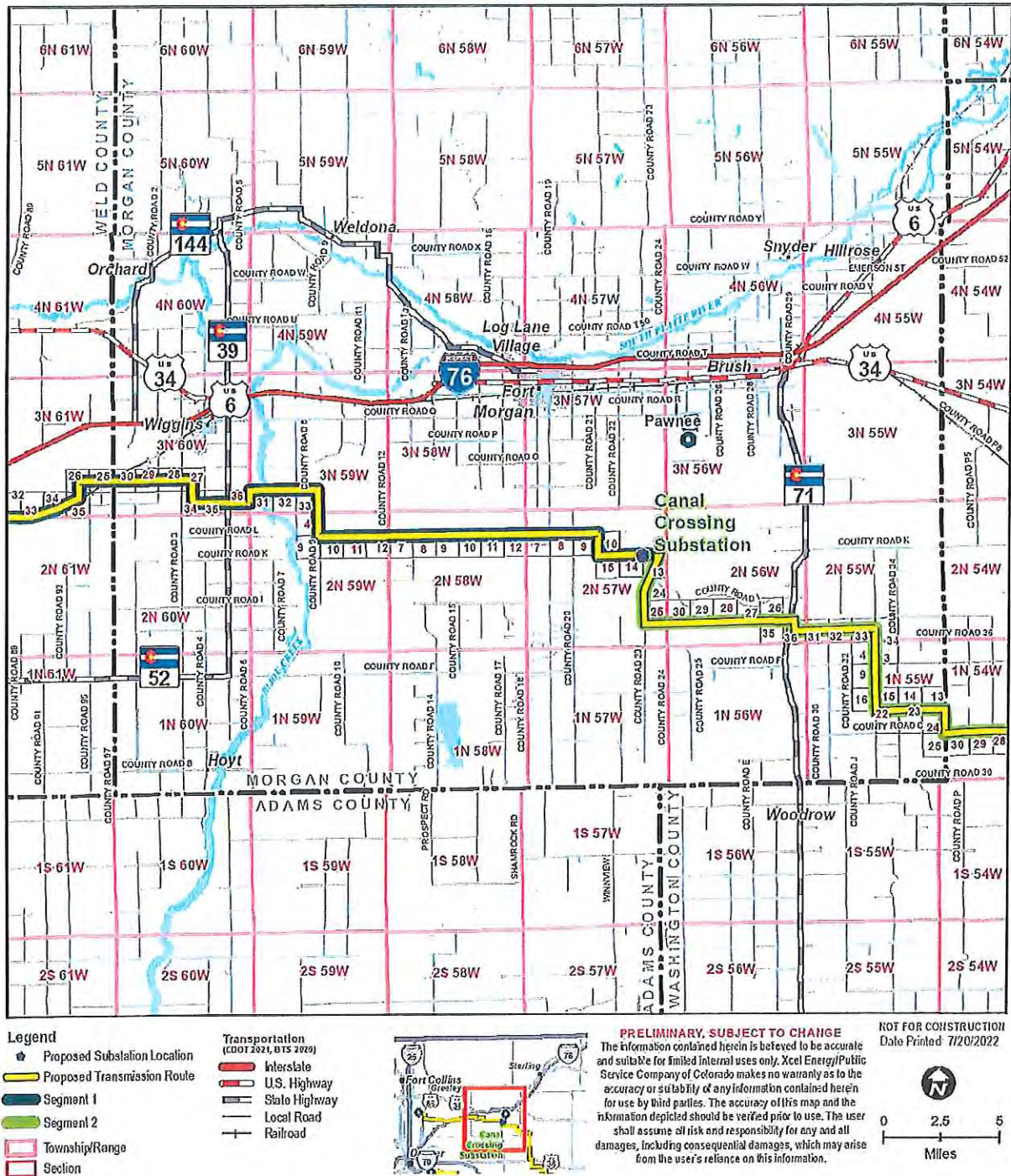
Construction and In-Service Schedule. Construction on Segment 2, including Canal Crossing, is anticipated to begin in 2023 and be completed in 2025. Construction on Segment 1 is expected to begin in 2024 and be completed in 2026. Each Segment will be placed in-service once construction is completed.

Additional Permits and Approvals. Multiple Colorado statutory provisions and local government land use plans and controls apply to Pathway, including approval of a Certificate of Public Convenience and Necessity from the Colorado Public Utilities Commission (received June 2, 2022); notice, consultation, and permit approvals from counties and municipalities; and notice to owners of a mineral estate associated with the substation sites. All necessary land use, environmental, and construction permits, approvals, and authorizations will be obtained prior to the start of and during construction as required. The submittal of Xcel Energy's 1041 permit application to Morgan County is part of this process.

COLORADO'S POWER PATHWAY

APPLICATION SUMMARY

Morgan County Site Selection and Construction of Major Facilities of a Public Utility (1041 Permit)





MORGAN COUNTY PLANNING AND BUILDING DEPARTMENT

TO REFERRAL AGENCIES:

Century Link
Colo. Dept. of Natural Resources
Colo. Dept. of Public Health and Environment
Colo. O&G Conservation Commission
Colo. State Land Board, Dept. of Nat. Resources
Division of Wildlife
Wiggins Fire Department
Brush Fire Department
Fort Morgan Fire Department
Kinder Morgan, Inc.
Weld County Planning Department
Morgan County Assessor
Morgan County Communications Center
Morgan County Quality Water
Morgan County Road & Bridge

Morgan County Rural Electric Assoc.
Morgan Soil Conservation District
Morgan County Sheriff
Western Area Power Administration
USDA Farm Service Agency
Fort Morgan Reservoir & Irrigation
Upper Platte & Beaver Canal Co.
N. Kiowa Bijou Well Ground Water District
Bijou Irrigation
Cheyenne Plains Gas Pipeline Company, LLC
Lower Platte & Beaver Canal Co.
City of Wiggins
City of Fort Morgan
City of Brush
Blue Lightning (Wiggins Telephone)
CDOT

FROM: Nicole Hay, Morgan County Planning Administrator
231 Ensign St, PO Box 596, Fort Morgan, CO 80701
970-542-3526 / 970-542-3509 fax / nhay@co.morgan.co.us

DATE: January 23, 2020

RE: Land Use Application- Special Use

The following 1041 Permit Application for a Major Facility of a Public Utility will be heard by the Morgan County Board of County Commissioners on **Wednesday, September 14, 2022 at 9:00 a.m.** in the Assembly Room of the Morgan County Administrative Building, 231 Ensign Street, Fort Morgan, CO 80701 (Basement level; use elevator entrance in SW corner). You are welcome to attend and comment at this public meeting.

Public Service Company of Colorado (PSCo) – Applicant

Reason: 1041 Permit Application for a Major Facility of a Public Utility to construct and operate a transmission line and proposed new substation in a portion of Colorado's Power Pathway located in Morgan County.

Date of Application: June 30, 2022

Documents pertaining to the above identified matters are on file in the Planning Administrator's Office, 231 Ensign St., Fort Morgan, Colorado. Documents are also available on the Morgan County Website <https://morgancounty.colorado.gov>

Please offer any comments or concerns you may have about this application.
Do not hesitate to contact me at any time if you have questions.

You are encouraged to provide comments to this application or attend the Morgan County Board of County Commissioners meeting on Wednesday, September 14, 2022. (See Map Attached)

COLORADO'S POWER PATHWAY

APPLICATION SUMMARY

Morgan County Site Selection and Construction of Major Facilities of a Public Utility (1041 Permit)

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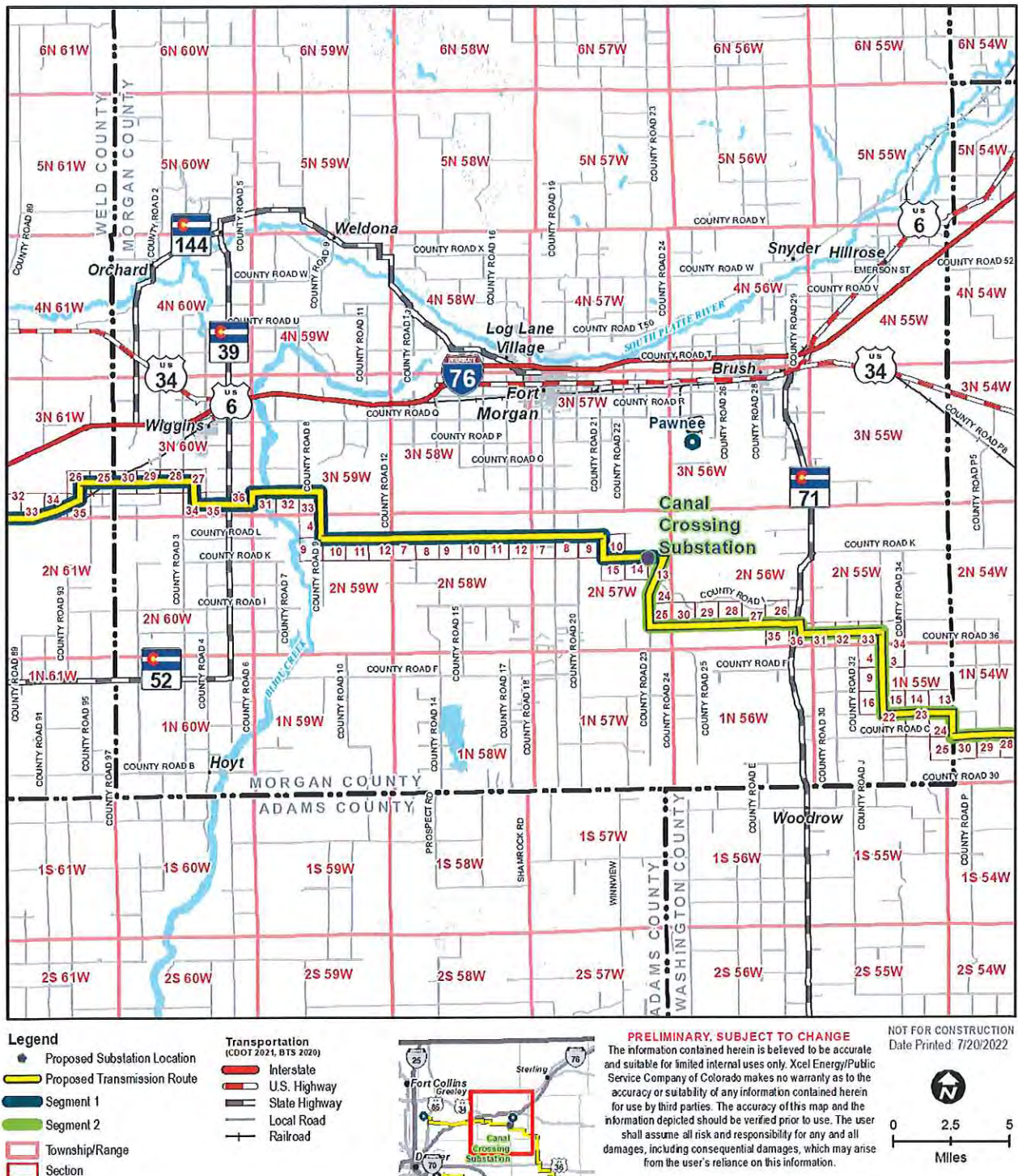
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COLORADO'S POWER PATHWAY

APPLICATION SUMMARY

Morgan County Site Selection and Construction of Major Facilities of a Public Utility (1041 Permit)



Morgan County Overview Map



Cheryl Brindisi <cbrindisi@co.morgan.co.us>

Xcel Energy Power Pathway Project

Bilobran - CDOT, Timothy <timothy.bilobran@state.co.us>
To: Cheryl Brindisi <cbrindisi@co.morgan.co.us>

Tue, Jul 26, 2022 at 12:27 PM

Cheryl,

Thank you for sending this to us for comment. The only comment we have is the applicant will need to pull utility permits for their Highway 52 and Highway 71 Crossings. Those should be more or less run-of-the-mill permits so I don't have any large concerns with this project for the county's review process. Please let me know if you have any questions.

Tim

[Quoted text hidden]

--

Tim Bilobran

Region 4 Permits Manager



O 970.350.2163 | C 970.302.4022 | F 970.350.2198
timothy.bilobran@state.co.us | codot.gov | www.cotrip.org
10601 W. 10th Street, Greeley, CO 80634



1800 Larimer Street
Denver, CO 80202

Via Certified Mail, Return Receipt Requested

Nicole Hay, Director
Morgan County
Planning and Zoning Department
231 Ensign Street, P.O. Box 596
Fort Morgan, Colorado 80701

August 12, 2022

Mineral Owners Notification Notice – Application for a Permit for Site Selection and Construction of Major Facilities of a Public Utility for Colorado's Power Pathway

Dear Ms. Hay:

Public Service Company of Colorado, a Colorado corporation doing business as Xcel Energy (Xcel Energy), has submitted to Morgan County an application for a permit to site and construct major facilities of a public utility (1041 Application). The Surface Development Notification Act (CRS §§ 24-65.5-103 et seq.) (Act) provides that not less than 30 days before the date scheduled for the initial public hearing by a local government on an application for development, the applicant must send a notice of that hearing by certified mail to mineral estate owners (owners or lessees of the mineral estate under the property which is the subject of the application). In addition, as the local government considering the application for development, Xcel Energy (the applicant) is providing notice to you pursuant to the Act confirming that Xcel Energy sent notice of the public hearing on the 1041 Application to the identified mineral estate owners under the proposed location of the new Canal Crossing Substation (a property which is a subject of the 1041 Application). The location of the property for the Canal Crossing Substation that is a subject of the hearing on the 1041 Application is shown on the enclosed map and the legal description is as follows:

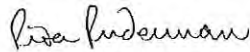
SUBJECT LAND: N/2 NW/4 Section 13, Township 2 North, Range 57 West.

A list containing the names and addresses of the mineral estate owners or lessees to whom notices were sent pursuant to the Act is provided as **Attachment 1**. Per Section 2-206(1)(c) of the Morgan County Guidelines and Regulations for Areas and Activities of State Interest, the Board of County Commissioners may refer the 1041 Application to mineral interest holders for comment in the case of projects to be constructed more than ten feet below the surface, excluding foundation structures for aboveground transmission lines. Xcel Energy hopes these materials and information assist the County's review of the 1041 Application.

Xcel Energy understands that there will be a Public Hearing regarding the 1041 Application at **9:00 AM** on **September 14th**, at the Morgan County Administration Building Commissioner's Assembly Room – Floor B, 231 Ensign Street, Fort Morgan, CO 80701 and looks forward to participating in that hearing.

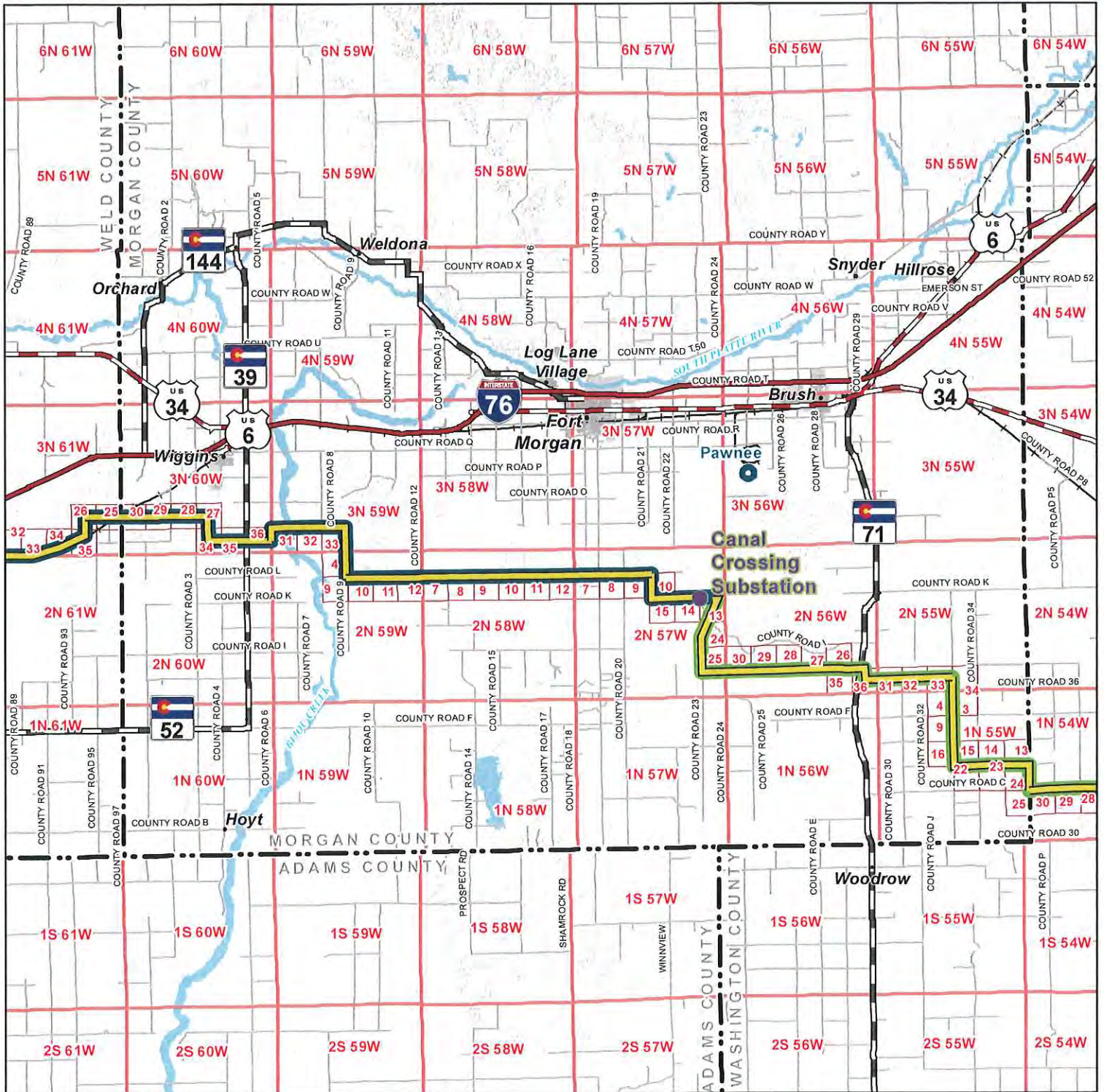
Contact Rita Ruderman at (303) 571-7159 or email at Rita.C.Ruderman@XcelEnergy.com if you require further information or have any questions.

Sincerely,

A handwritten signature in black ink that reads "Rita Ruderman". The signature is written in a cursive, flowing style.

Rita Ruderman, Principal Agent
Siting & Land Rights
Xcel Energy
Telephone: (303) 571-7159
Rita.C.Ruderman@XcelEnergy.com

COLORADO'S POWER PATHWAY



Legend

- Proposed Substation Location
- Proposed Transmission Route
- Segment 1
- Segment 2
- Township/Range
- Section

Transportation

(CDOT 2021, BTS 2020)

- Interstate
- U.S. Highway
- State Highway
- Local Road
- Railroad



PRELIMINARY, SUBJECT TO CHANGE

The information contained herein is believed to be accurate and suitable for limited internal uses only. Xcel Energy/Public Service Company of Colorado makes no warranty as to the accuracy or suitability of any information contained herein for use by third parties. The accuracy of this map and the information depicted should be verified prior to use. The user shall assume all risk and responsibility for any and all damages, including consequential damages, which may arise from the user's reliance on this information.

NOT FOR CONSTRUCTION
Date Printed: 7/20/2022



0 2.5 5
Miles

Morgan County Overview

ATTACHMENT 1: MINERAL ESTATE OWNERS

Mineral Ownership Report
Tax Parcel #: Part of 1291-130-00-001
Morgan County, Colorado
Prepared by: Jackie Smith, Burns & McDonnell

MATERIALS EXAMINED: The following report is comprised of an examination of the tax assessment records and instruments of record in Morgan County, Colorado, pertaining to the Subject Land from Patent to June 22, 2022.

SUBJECT LAND: N/2 NW/4 Section 13, Township 2 North, Range 57 West.

MINERAL OWNERSHIP

Owner Name and Address of Record	Vesting Document	Mineral Interest (%)
Stephen Cecil and Joann Cecil P. O. Box 102 Fort Morgan, CO 80701	Reception #875949	50.00
Bruce Huey (Life Estate, Beth Fuller, Maud Huey-Kenyon and Mary Huey-Leleiwi, Remaindermen) 615 E. Biju Avenue Fort Morgan, CO 80701	Reception #875593	12.25
Beth Fuller 2401 Brookwood Fort Collins, CO 80525	Reception #875593	12.25
Maud Huey-Kenyon 900 Baseline Road, Chautauqua #18 Boulder, CO 80302	Reception #875593	12.25
Mary Huey-Leleiwi 620 E. Beaver Avenue Fort Morgan, CO 80701	Reception #875593	12.25
Philip B. Neal GST Exempt Trust 11572 Arnett Ranch Road Littleton, CO 80127	Reception #839075	0.3333
John M. Neal GST Exempt Trust 7540 East Parkside Drive Boardman, OH 44512	Reception #839075	0.3333
Daniel R. Neal GST Exempt Trust P. O. Box 641 Sedalia, CO 80135	Reception #839075	0.3334
* Frances F. Huey Trust c/o Bruce Huey, Trustee 615 E. Biju Avenue Fort Morgan, CO 80701	Reception #712768	* 0.0000

* Millard I. Huey Trust c/o Trust Officer, Farmers State Bank of Fort Morgan, Trustee 123 Kiowa Ave Fort Morgan, CO 80701	Reception #712768	* 0.0000
George L. Seward 2710 County Road 39 Yuma, CO 80759	Estate of Robert Seward #15 PR 30027 DB 520/276	6.25 (Non-Participating Royalty Interest, NPRI)
Karen J. Seward 39101 County Road E Yuma, CO 80759	Estate of Robert Seward #15 PR 30027 DB 520/276	6.25 (NPRI)
Millicent Marie Leaming 845 Howe Rd Laramie, WY 82070	Estate of Millicent Pletcher #02PR114 DB 520/387	4.167 (NPRI)
John Wesley Pletcher III 13608 Jarvi Drive Anchorage, AK 99515	Estate of Millicent Pletcher #02PR114 DB 520/387	4.167 (NPRI)
Robert Huey Pletcher 4530 Salsbury Street Wheat Ridge, CO 80033	Estate of Millicent Pletcher #02PR114 DB 520/387	4.167 (NPRI)
Bruce Huey 615 E. Biju Avenue Fort Morgan, CO 80701	Reception #875593	3.125 (NPRI)
Beth Fuller 2401 Brookwood Fort Collins, CO 80525	Reception #875593	3.125 (NPRI)
Maud Huey-Kenyon 900 Baseline Road, Chautauqua #18 Boulder, CO 80302	Reception #875593	3.125 (NPRI)
Mary Huey-Leleiwi 620 E. Beaver Avenue Fort Morgan, CO 80701	Reception #875593	3.125 (NPRI)

* No conveyance out of the Frances F. Huey Trust or Millard I. Huey Trust found of record. Frances Huey died in 1996 and Millard Huey died in 1995. Their Probates are filed in Morgan County Probate No. 01 PR 56 and No. 01 PR 54. Probates have been ordered but are not available for review at the time of this report. Per Frances F. Huey Trust Affidavit at Reception #759904, Bruce Huey and Farmers State Bank are Trustees. Per conveyance at Reception #759908, Farmers State Bank is Trustee for Millard I. Huey Trust. In an abundance of caution, the Trusts are listed as mineral owners that require notification of surface development, though it is likely that all mineral interests passed from the Trusts to the 4 children that are identified in Reception #875593 and #875949. Moreover, said Reception #875949 conveys "all rights, title, and interest of Grantors in and to the Mineral Rights owned by (i) the Estate of Millard I. Huey, (ii) the Millard I. Huey Trust, (iii) the Estate of Frances F. Huey, and/or (iv) the Frances F. Huey Trust."

CERTIFICATION OF 1041 PERMIT
APPLICATION INFORMATION



1800 Larimer Street
Denver, CO 80202

Via Email

September 2, 2022

Nicole Hay, Director
Morgan County Planning and Zoning Department
231 Ensign Street, P.O. Box 596
Fort Morgan, Colorado 80701

RE: Certification of 1041 Permit Application Information for Colorado's Power Pathway

Dear Director Hay:

Public Service Company of Colorado, an Xcel Energy company, submitted an application for Site Selection and Construction of Major Facilities of a Public Utility Permit ("Application") in June 2022 for the portion of Colorado's Power Pathway (Pathway) in Morgan County.

Pursuant to Morgan County Guidelines and Regulations for Areas and Activities of Statewide Interest (the Morgan County § 1041 Regulations), Section 3-305(2)(b), Xcel Energy respectfully submits this letter certifying that the last search for surface property owners was completed on September 2, 2022. The Morgan County § 1041 Regulations require this certification no later than ten days before the Planning Commissioners' hearing. Because Morgan County has determined that a public hearing is not required before the Planning Commission for Pathway, Xcel Energy has completed this search no later than ten days before the Board of County Commissioners hearing, which is scheduled for September 14, 2022.

Attachment D of the Application lists the names and addresses available in Morgan County's Assessor's database of all surface property owners within five-hundred (500) feet of the proposed transmission line centerline. In August 2022, Xcel Energy reviewed the same database and confirmed no changes had occurred. Noting that the data had not been updated for several months, a separate review of the individual parcel data on the Assessor's website was completed. This review identified one parcel that has changed ownership in 2022. The Assessor's database does not reflect this change, but we have incorporated it in the revised surface property owners list attached to this letter. With this one updated landowner, Xcel Energy certifies that the attached information was compiled and verified in a manner reasonably designed to ensure the accuracy of such information.

Please contact me by telephone at (303) 571-7088 or email at Carly.R.Rowe@xcelenergy.com or contact our environmental consultant, Stephanie Phippen with Tetra Tech Inc., at (303) 980-3515 or Stephanie.Phippen@tetrattech.com if you need any additional information regarding this certification.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carly Rowe'.

Carly Rowe, Manager, Siting and Land Rights
Siting & Land Rights
Xcel Energy
Telephone: (303) 571-7088
Carly.R.Rowe@xcelenergy.com

**Attachment: Updated Surface Property Owners
List (Including Special District Information) –
September 2, 2022 – Xcel Energy 1041 Permit
Application**

							MORGAN COUNTY						
NAME	C/O	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	MORGAN COUNTY	MORGAN COUNTY	SPECIAL	MORGAN COUNTY	EAST MORGAN	EAST MORGAN	
							SCHOOL DISTRICT	FIRE DISTRICT	ASSESSMENT	PEST CONTROL	COUNTY LIBRARY	COUNTY HOSPITAL	
									WATER DISTRICT	DISTRICT	DISTRICT	DISTRICT	
STATE OF COLORADO	LAFONTAINE, MATTHEW	STATE BOARD OF LAND COMMISSIONERS	1127 SHERMAN ST - STE 300	DENVER	CO	80203	RE3	--	--	--			
STATE OF COLORADO	LAFONTAINE, MATTHEW	STATE BOARD OF LAND COMMISSIONERS	1127 SHERMAN ST - STE 300	DENVER	CO	80203	RE3	WFD	--	--			
BUSCH, DANIEL L			11965 HWY 52	WIGGINS	CO	80654	RE50	WFD	KB	WP			
BUSCH, DANIEL L			11965 HWY 52	WIGGINS	CO	80654	RE50	WFD	KB	WP			
BUSCH, DANIEL L			11965 HWY 52	WIGGINS	CO	80654	RE50	WFD	KB	WP			
MCBRIDE, WILL			5751 CO RD M	WIGGINS	CO	80654	RE50	WFD	KB/QW	WP			
TROUDT FARMS LLC			11754 CO RD 6	WIGGINS	CO	80654	RE50	WFD	KB/QW	WP			
BUSCH, DANIEL L			11965 HWY 52	WIGGINS	CO	80654	RE50	WFD	KB	WP			
KROSKOB, CRAIG & LISA			11491 CO RD 12	FORT MORGAN	CO	80701	RE50	WFD	KB	--			
KROSKOB, CRAIG & LISA			11491 CO RD 12	FORT MORGAN	CO	80701	RE50	WFD	KB	WP			
HOFMANN, CASPAR IV			2940 INTERLOCKEN DR	EVERGREEN	CO	80439	RE50	WFD	KB	WP			
STATE OF COLORADO		BOARD OF LAND COMMISSIONERS	1313 SHERMAN ST - RM 620	DENVER	CO	80203	RE50	WFD	KB	WP			
STATE OF COLORADO		BOARD OF LAND COMMISSIONERS	1313 SHERMAN ST - RM 620	DENVER	CO	80203	RE50	WFD	KB	WP			
WATSON, RANDALL M & JUDY A			6549 S WINDERMERE ST	LITTLETON	CO	80120	RE50	WFD	KB/QW	WP			
GREEN, CLARK A & MELVIN H			5687 CO RD P	WIGGINS	CO	80654	RE50	WFD	KB/QW	WP			
VAUGHN, MICHAEL			12650 TUCSON ST	HENDERSON	CO	80640	RE50	WFD	KB	WP			
GREEN, CLARK A & MELVIN H			5687 CO RD P	WIGGINS	CO	80654	RE50	WFD	KB	WP			
GABEL CATTLE LLC			P O BOX 717	GALETON	CO	80622	RE50	WFD	KB	WP			
VAUGHN, MICHAEL			12650 TUCSON ST	HENDERSON	CO	80640	RE50	WFD	KB/QW	WP			
EMPIRE LAND CO LLC			1473 CO RD S	WIGGINS	CO	80654	RE50	WFD	KB	WP			
FETTERS, EDWARD L ET AL			P O BOX 262	POTTER	NE	69156	RE50	WFD	KB	WP			
GABEL CATTLE LLC			P O BOX 717	GALETON	CO	80622	RE50	WFD	KB	WP			
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE3	BFD	--	--			
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE3	BFD	--	--			
GLENN RANCH & CATTLE COMPANY RLLLP			6432 CO RD 19	FORT MORGAN	CO	80701	RE3	--	--	--			
KROSKOB, CRAIG D			11491 CO RD 12	FORT MORGAN	CO	80701	RE3	--	--	--			
CROFT, PHIL & JANICE			10866 CO RD 12	FORT MORGAN	CO	80701	RE3	--	--	--			
KROSKOB, CRAIG D			11491 CO RD 12	FORT MORGAN	CO	80701	RE3	--	--	--			
STATE OF COLORADO	LAFONTAINE, MATTHEW	STATE BOARD OF LAND COMMISSIONERS	1127 SHERMAN ST - STE 300	DENVER	CO	80203	RE3	--	--	--			
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KROSKOB, CRAIG & LISA			11491 CO RD 12	FORT MORGAN	CO	80701	RE50	WFD	KB	WP			
LOOSE, ROBERT INC			47025 CO RD 26.5	WIGGINS	CO	80654	RE50	WFD	KB	WP			
MARI, JOHN P REVOCABLE TRUST			8655 FLYING B WAY - UNIT 6412	HIGHLANDS RANCH	CO	80129	RE50	WFD	KB	--			
KROSKOB, CRAIG & LISA			11491 CO RD 12	FORT MORGAN	CO	80701	RE50	WFD	KB	--			
KROSKOB, CRAIG & LISA			11491 CO RD 12	FORT MORGAN	CO	80701	RE50	WFD	KB	--			
MARI, JOHN P REVOCABLE TRUST			8655 FLYING B WAY - UNIT 6412	HIGHLANDS RANCH	CO	80129	RE50	WFD	--	--			
MARI, JOHN P REVOCABLE TRUST			8655 FLYING B WAY - UNIT 6412	HIGHLANDS RANCH	CO	80129	RE50	WFD	--	--			
LOOSE, ROBERT INC			47025 CO RD 26.5	WIGGINS	CO	80654	RE50	WFD	KB	WP			
YEAROUS LAND CO LLC			15442 CO RD 15	FORT MORGAN	CO	80701	RE3	--	--	--			
STATE OF COLORADO	LAFONTAINE, MATTHEW	STATE BOARD OF LAND COMMISSIONERS	1127 SHERMAN ST - STE 300	DENVER	CO	80203	RE3	--	--	--			
ANDERSON, PETER V & KAREN V			20738 CO RD N	FORT MORGAN	CO	80701	RE3	--	--	--			
MARI, JOHN P REVOCABLE TRUST			8655 FLYING B WAY - UNIT 6412	HIGHLANDS RANCH	CO	80129	RE50	WFD	--	--			
MAYES, BETTY ET AL			1500 4TH AVE - APT 704	SEATTLE	WA	98101	RE50	WFD	--	--			
GLENN RANCH & CATTLE COMPANY RLLLP			6432 CO RD 19	FORT MORGAN	CO	80701	RE3	MFD	--	--			
STATE OF COLORADO	LAFONTAINE, MATTHEW	STATE BOARD OF LAND COMMISSIONERS	1127 SHERMAN ST - STE 300	DENVER	CO	80203	RE50	WFD	KB	--			
STATE OF COLORADO	LAFONTAINE, MATTHEW	STATE BOARD OF LAND COMMISSIONERS	1127 SHERMAN ST - STE 300	DENVER	CO	80203	RE3	--	--	--			
DANFORD, DANIEL L & DEBORAH L			9788 CO RD 19	FORT MORGAN	CO	80701	RE3	MFD	--	--			
ANDERSON, PETER V & KAREN V			20738 CO RD N	FORT MORGAN	CO	80701	RE3	MFD	--	--			
SILZ LAND COMPANY LLC			19189 CO RD N	FORT MORGAN	CO	80701	RE3	MFD	--	--			
SILZ LAND COMPANY LLC			19189 CO RD N	FORT MORGAN	CO	80701	RE3	MFD	--	--			
STATE OF COLORADO		BOARD OF LAND COMMISSIONERS	1313 SHERMAN ST - RM 620	DENVER	CO	80203	RE3	MFD	--	--			
GLENN RANCH & CATTLE COMPANY RLLLP			6432 CO RD 19	FORT MORGAN	CO	80701	RE3	MFD	--	--			
FLYING BEE RANCH LLC			29382 CO RD R	BRUSH	CO	80723	RE50	WFD	KB/QW	WP			
VELASQUEZ, OVIDIO & DIANA MARIA			1008 EDISON ST	BRUSH	CO	80723	RE3	MFD	--	--			
DANFORD, DANIEL L			9788 CO RD 19	FORT MORGAN	CO	80701	RE3	MFD	--	--			
DANFORD, DANIEL L			9788 CO RD 19	FORT MORGAN	CO	80701	RE3	MFD	--	--			
RUARK, JAMES E			446 ARNOLD AVE	RIFLE	CO	81650	RE2	BFD	--	--	EL	BHD	
FISCUS, RANDY OWEN &		DILLEY, LYNN R	P O BOX 803	BRUSH	CO	80723	RE2	BFD	--	--	EL	BHD	
FISCUS, RANDY OWEN &		DILLEY, LYNN R	P O BOX 803	BRUSH	CO	80723	RE2	BFD	--	--	EL	BHD	
WDMG REAL ESTATE			P O BOX 230	MIDLAND	TX	79702	RE2	BFD	--	--	EL	BHD	
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE3	BFD	--	--			
STATE OF COLORADO		BOARD OF LAND COMMISSIONERS	1313 SHERMAN ST - RM 620	DENVER	CO	80203	RE3	--	--	--			
GREENE, RON M & GAYLE F			P O BOX 1247	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL	BHD	
ESCHEN, VERYL G TRUST			11548 RIDGEWOOD WAY	KIOWA	CO	80117	RE2	BFD	--	--	EL	BHD	
HOBBS, EVELYN C			5349 N 51ST ST	BOULDER	CO	80301	RE2	BFD	--	--	EL	BHD	
MCCONNELL, NATHANIEL D & NOLAN D			30026 HWY 71	SNYDER	CO	80750	RE2	BFD	--	--	EL	BHD	
KEMBEL, MARVIN D			23808 CO RD 23	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL	BHD	
FISCUS, RANDY OWEN &		DILLEY, LYNN R	P O BOX 803	BRUSH	CO	80723	RE2	BFD	--	--	EL	BHD	
HELLYER, RICHARD III			38664 CO RD DD	AKRON	CO	80720	RE2	BFD	--	--	EL	BHD	
WDMG REAL ESTATE			P O BOX 230	MIDLAND	TX	79702	RE2	BFD	--	--	EL	BHD	
2F LAND & CATTLE LLC			P O BOX 768	BRUSH	CO	80723	RE2	BFD	--	--	EL	BHD	

MORGAN COUNTY											
NAME	C/O	ADDRESS1	ADDRESS2	CITY	STATE	ZIP	MORGAN COUNTY	MORGAN COUNTY	MORGAN COUNTY SPECIAL	MORGAN COUNTY	EAST MORGAN
							SCHOOL DISTRICT	FIRE DISTRICT	ASSESSMENT WATER DISTRICT	PEST CONTROL DISTRICT	COUNTY LIBRARY DISTRICT
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE3	BFD	--	--	
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE3	BFD	--	--	
STEYAERT, LUANN			4733 CO RD 34	BRUSH	CO	80723	RE2	BFD	--	--	EL
STEYAERT, LUANN			4733 CO RD 34	BRUSH	CO	80723	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
COOK, JEFFREY A			29152 CO RD 0.5	BRUSH	CO	80723	RE2	BFD	--	--	EL
COOK, JEFFREY A			29152 CO RD 0.5	BRUSH	CO	80723	RE2	BFD	--	--	EL
SCHWARZ, KEVIN H			29920 CO RD H	BRUSH	CO	80723	RE2	BFD	--	--	EL
ELY FAMILY TRUST			6286 HWY 71	BRUSH	CO	80723	RE2	BFD	--	--	EL
SAN MIGUEL, GILBERT & BLANCA E			29610 CO RD H	BRUSH	CO	80723	RE2	BFD	--	--	EL
STEYAERT, LARRY			4733 CO RD 34	BRUSH	CO	80723	RE2	BFD	--	--	EL
STEYAERT, LARRY			4733 CO RD 34	BRUSH	CO	80723	RE2	BFD	--	--	EL
JOHNSON, SUE K & GARY E			6451 BANDERA RD - NO 211	SAN ANTONIO	TX	78238	RE2	BFD	--	--	EL
DIRKES, FRED DAVID & DOROTHY BETH			4413 CO RD 36	BRUSH	CO	80723	RE2	BFD	--	--	EL
JOHNSON, SUE K & GARY E			6451 BANDERA RD - NO 211	SAN ANTONIO	TX	78238	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE3	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
CECIL, STEPHEN & JOANN			P O BOX 102	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL
HERMES, DEREK JOSEPH & CHRISTINA MARIE			285 GUM AVE	AKRON	CO	80720	RE2	BFD	--	--	EL
GREENE, RON M & GAYLE F			P O BOX 1247	FORT MORGAN	CO	80701	RE2	BFD	--	--	EL

ADDITIONAL INFORMATION